A STUDY OF THE CONCEPTUAL MODELS OF THE COVENANT

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CHAPTER I

THE PROBLEM OF COVENANT MODELS

The concept of conceptual models is derived from the vocabulary of sociology. There it designates a precisely designed conceptual structure employed to interpret a set of social phenomena. The model functions as an interpretive hypothesis in relationship to the data. The adequacy of a model is judged in terms of its capacity to account for the data.[1]

We propose to adapt the concept of conceptual models to the study of the covenant relationship. Instead of sociological data, we shall be interpreting textual data. It is our objective to determine the conceptual model which most adequately interprets the relationship between the God Yahweh and the people Israel represented in Biblical texts. Like the sociologist we shall propose a model to interpret the evidence. The evidence relevant to a determination of which model is most adequate includes all materials functioning as a part of this relationship.[2]

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[1] As an example, cp. J. Hough's group conflict model of black-white relations, Joseph C. Hough, Jr., Black Power and White Protestantism, (New York: Oxford University Press, 1968), pp. 9-15. See also M. Weber's theory of "ideal types", Reinhard Bendix, Max Weber, An Intellectual Portrait, (Garden City, New York: Doubleday and Company, Inc. An Anchor Book, 1962), pp. 285ff.

[2] We are not practicing historical sociology. We are interpreting textual phenomena and shall use the appropriate tools, source-criticism, form-criticism, and so forth.

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We shall begin our study by reviewing the history of scholarly inquiry into the conceptual model of the covenant. This history tends to fall into two eras, each with its own model or models of the covenant relationship and of the course of its history. The earlier era, dominated by J. Wellhausen, employed an evolutionary model of historical process. Israel's relationship to its God was conceived as an intellectual development from a natural to a moral and finally to a legalistic relationship. Each of these stages can be considered the model of covenant for the respective historical period.

The post-Wellhausen era was characterized by a reaction against the evolutionary model of historical process. In covenant studies this tendency culminated in the form-critical identification of the Mosaic covenant as a suzerain-vassal treaty. This too can be considered a proposal regarding the conceptual model of the covenant. The basic model remained relatively constant throughout Israel's history.[1]

In the third part of this chapter we shall propose an alternative covenant model, the sovereign-subject relationship. Some recent studies have undermined much of the critical basis for the suzerain-vassal model of the classical covenant. The ground has been prepared for a new hypothesis, a new model for interpreting the texts representing the covenant between Israel and its God. The essence of the sovereign-subject model is the power of the sovereign to command and the obligation of his subjects to obey.

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[1] In tension and conflict with an Abrahamic-Davidic unconditional understanding of covenant.

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The Evolutionary View

Evolution is not itself a model of the covenant relationship, but rather a model of the historical development through which the understanding of the relationship passed. The concept of conceptual model of the covenant applies to each stage of understanding. Nevertheless the idea that human history follows a pattern of intellectual development from 'primitive' to 'sophisticated' influenced the suggested model of each stage decisively. Thus, for those who accept the evolutionary model of historical process, the model of the process cannot be separated from the model of each stage in it.

Wellhausen. Julius Wellhausen observed an all-embracing cultural-intellectual development in Israelite history. The relationship between Yahweh and Israel evolved from a 'natural' to a 'spiritual-moral' and finally to a 'ritualistic-legalistic' one. Israel's concept of God was at first of an immanent and anthropomorphic deity who became progressively transcendent and moral. In the patriarchal age the conception of God was animistic. Later Yahweh was a tribal deity whose relationship to Israel was close to the mythological relationship of family or kin. Under the early kingship Yahweh became a king. With the prophets God became a judge of the conscience. Deuteronomy introduces the analogy of suzerain.[1]

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[1] Aside from the following, cp. Bernhard Stade, *Geschichte des Volkes Israel*, (Berlin: G. Grote, 1887-8), I, 428ff, and *passim*; J. Robertson, *The Early Religion of Israel*, (New York: Anson D.F. Randolph, 1892), pp. 302ff, and *passim*.

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Wellhausen maintained that Israel had no overall social-political shape until the monarchy was established. In the period of the Judges, the institutions of society were solely local, primarily the relationships of kin. The only larger actions were the transient combinations of clans or at most tribes under the leardship of 'generals' to meet external crises.[1] The monarchy arose from the establishment of one such general, Saul, as a permanent leader. David created the state in the full sense, and the institutions of the nation, cultus, court, and so forth, grew up on this soil. The state created the nation.[2] It also stimulated the development of Yahwism as a national faith: "The kingship of Jehovah...is the religious expression of the fact of the foundation of the kingdom by Saul and David."[3]

The establishment of the state created the civil law (*jus*) as distinct from the sacred order (*fas*).[4] At an earlier time the law consisted of the general moral order presupposed by all men and the specific instructions of an oral, existential character.

> Ancient Israel was certainly not without God-given bases for the ordering of human life; only they were not fixed in writing. Usage and tradition were looked on to a large extent as the instruction of the Deity.[5]
>
> Much greater importance is attached to the special Torah of Jehovah, which not only sets up laws of action of universal validity, but shows man the way in special cases of difficulty, where he is at a loss.[6]

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[1] Julius Wellhausen, *Prolegomena to a History of Ancient Israel,* (Cleveland: The World Publishing Company, 1961), pp. 412f.

[2] *Ibid.*, p. 413f. [3] *Ibid.*, p. 414. [4] *Ibid.*, p. 395.

[5] *Ibid.*, p. 393. [6] *Ibid.*, p. 394.

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The law was not a given body of demands and sanctions, but a process of oral help and instruction. The prophet as well as the priest was a source of law in this sense.[1] Wellhausen, following Vatke, considered the Covenant Code (Ex. 20:23-23:19) to be a writing in the spirit of prophetic writing, something of a 'private memorandum' of precepts.[2] Deuteronomy was the first attempt to compose a systematic summary of the law and promulgate it as authoritative for the nation.[3] It represents a legal reform.[4]

The law of the Priestly source of the Pentateuch has an entirely different motive, to preserve the law after the destruction of the state.[5] Its law was to be the basis of a restoration of the community. It raises cultic law to the center and includes the technical knowledge of the priest because Israel is no longer a political state, but a religious community.[6] This law was imposed upon the community by Ezra.[7]

The Biblical tradition understands the law to be a part of its covenant relationship with Yahweh. Wellhausen did not believe the concept of covenant antedated prophecy, for "the relation of Jehovah to Israel was in its nature and origin a natural one; there was no interval between Him and His people to call for thought or question."[8] Yahweh's transcendence was first recognized by Elijah and Amos under the threat of the Arameans and Assyrians. The natural bond of Yahweh to Israel was severed and the relationship was reconstructed on a morally conditional basis. To the prophets Yahweh's bond was subordinated to his justice.[1] Torah, which was hitherto understood as divine aid, now became the condition for aid.

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[1] Ibid, pp. 396ff.

[2] Ibid., p. 402.

[3] Ibid.

[4] Ibid., p. 404.

[5] Ibid., pp. 404ff.

[6] Ibid.

[7] Ibid., p. 405ff.

[8] Ibid., p. 417.

The term ברית, 'covenant', does not occur, according to Wellhausen, in the eighth century prophets, not even where the idea is present.[2] This indicates that the contractual understanding of the covenant did not antedate them. On the other hand, ברית was a correct exegesis of the prophetic conception of Yahweh's moral transcendence. It derives from human relations:

> The ancient Hebrews had no other conception of law nor any other designation for it than that of a treaty. A law only obtained force by the fact of those to whom it was given binding themselves to keep it.[3]

Under the influence of prophecy, this idea was introduced into theology.

> In this view of the matter Jehovah and Israel came to be regarded as the contracting parties of the covenant by which the various representatives of the people had originally pledged each other to keep, say, the Deuteronomic law. After the solemn and far-reaching act by which Josiah introduced this law, the notion of covenant-making between Jehovah and Israel appears to have occupied the central position in religious thought.[4]

The experience of the Babylonian and Assyrian exiles confirmed in the people's mind that 'the covenant depended on conditions, and might possibly be dissolved.'[5]

Wellhausen's evolutionary position was accepted by a majority of the literary critics. It would not be worth our while to examine them and the debates between proponents of variations of the evolutionary interpretation of the history of the understanding of the covenant. But

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[1] *Ibid.*

[2] *Ibid.*, p. 418.

[3] *Ibid.*

[4] *Ibid.*

[5] *Ibid.*, p. 419.

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it will be of value to describe Joachim Begrich's restatement of the evolutionary thesis, for it has been influential.

Begrich. While Wellhausen based his thesis that the conditional covenant, modelled on the treaty between a suzerain and his vassals, was late on the absence of the term ברית in the older sources,[1] Joachim Begrich based his position on a re-evaluation of the older use of ברית, which he believed to go back as early as the Yahwist. Like Wellhausen, Begrich assumed that the religious application of ברית derived from the secular use, so he began his study of the term in its secular applications. The earliest examples understand the *berit*-relationship to involve unequal partners.[2] A superior grants a ברית to an inferior. The superior is bound to the inferior, but not the reverse.[3] The receiver is entirely passive, at most taking an oath. The superior guarantees the life and well-being (שלום) of the inferior.[4] The relationship cannot be dissolved by the superior.[5] It was formalized by a common meal, the severing of an animal as a symbol of what will happen to the superior if he violates his pledge, or other symbols of pledge.[6] This type of covenant continued down to the ninth century. The parties could be private citizens, public officials, or peoples.[7]

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[1] *Ibid*., p. 418.

[2] Joachim Begrich, "Berit", *Gesammelte Studien zum Alten Testament*. ("Theologische Bücherei," 21; München: Chr. Kaiser Verlag, 1964), p. 2. Chief examples: Josh. 9, 1 Sam. 18, 2 Sam. 3:12, 1 Kg. 20:34.

[3] *Ibid*.

[4] *Ibid*., p. 2f.

[5] *Ibid*., p. 3.

[6] *Ibid*., p. 2f. This rite is the source of the phrase 'to *cut* a *berit*.'

[7] *Ibid*., p. 3f.

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The term was applied to treaties involving mutuality after the rise of the monarchy. In the earlier texts the superior party entered into the relationship because he saw certain presuppositions which made it possible. The presuppositions for entering now became provisions of the ברית.[1] The decisive impetus for the transformation was Canaanite legal thought, which strove for precision, differentiation and regulation between men. The older concept may have been an indigenous Israelite type of thinking.[2] At any rate, the inferior now became an active partner. The relationship became conditional on both sides. The content (שלום) remained the same, but it was now enunciated in positive prescriptions.[3] The formalization of the relationship remained the same too, but both parties began to participate equally.[4] There was a change in language as well. The older covenant texts related the weaker party to the action by ל, 'for,' but את, עם, 'with,' and בן, 'between,' became regular. The verb to describe the action, 'cut,' changes from singular to plural.[5] The ברית is now witnessed, giving the possibility of appeal, and it was even put into writing.[6]

The term ברית was first applied to the relationship between Yahweh and Israel with the older conception in mind. The Davidic covenant was a promise of successors (2 Sam. 23:5). Election and covenant were, according to that conceptual framework, correlates.[7] The covenant between Yahweh and Israel was conceived of in the same way in J (Ex. 24:1f,9-11) and P.[8] The recipient has no obligations imposed upon him. There was no 'law' in the covenant. The relationship was one of pure grace, pure divine commitment.[1] But the religious concept of ברית followed the secular from a unilateral to a mutual relationship. That already took place in E. This source imposes law on the people along with the covenant, and the people pledge themselves to it. Josh. 24 sets law and covenant together.[2] The danger of this mutual covenant was of a legalism which believes that human obedience can earn divine grace (cp. Ps. 44:18).[3] Finally, the term ברית comes to approximate law. The *document* of the covenant now records the transaction.[4] Deuteronomy accentuates the direction set down by the Elohist.[5]

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[1] *Ibid.*, p. 4.
[2] *Ibid.*, p. 4f.
[3] *Ibid.*, p. 5f.
[4] *Ibid.*
[5] *Ibid.*, p. 5.
[6] *Ibid.*, p. 6.
[7] *Ibid.*, p. 7.
[8] *Ibid.*

Wellhausen and Begrich, thus disagreed regarding when the term ברית was first applied to the relationship between Yahweh and Israel, yet they held very similar views of the history of the understanding of this relationship. The original covenant was, both believed, unconditional, and the conditional understanding, involving mutual obligations, evolved at a later time. Begrich attributed the shift to a change in the secular understanding of the term, while Wellhausen assigned the introduction of conditions to classical prophecy. Begrich understood the shift to be something of a defection, a fall from grace to law, whereas Wellhausen considered it to be the result of intellectual-moral growth.[6]

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[1] *Ibid.*, [illegible]

[2] *Ibid.*, p. 8.

[3] *Ibid.*, p. 9.

[4] *Ibid.*, p. 9f.

[5] *Ibid.*

[6] However, Wellhausen has a somewhat equivocal attitude toward Deuteronomy, *op. cit.*, pp. 402f; cp. James Barr, *Old and New in Interpretation*, (New York: Harper and Row, 1966), p. 180.

The Suzerain-Vassal Model

The form-critical studies which argue that the Biblical texts representing the covenant between Yahweh and Israel follow the form of a suzerain-vassal treaty propose the suzerain-vassal relationship as the conceptual model of the relationship of Yahweh and Israel. Form-criticism concerns textual phenomena. The analysis of the conceptual model concerns the relationship, in this case, of the parties of the covenant. The question of form can be divorced in principle from that of model. Where the covenant is thought to be modelled on a suzerain-vassal relationship, the form-critical analysis of the Biblical texts representing the covenant constitutes the primary evidence.

Early Exponents. The traditional view was that the relationship between Yahweh and Israel was conditional from the beginning, from the covenant-making at Sinai. Ernst Sellin offered one of the first major attempts to re-establish this view in the face of Wellhausen's challenge. He argued that Yahweh's condescension and help was always a demanding grace, a grace which obligated its recipient. Law always implied the possibility of violation, and therefore carried sanctions. The relationship between Yahweh and Israel was never unbreakable by nature.[1]

Walther Eichrodt used the covenant as an integrating concept of a synthesis of the whole of Israelite faith in his Old Testament Theology.[1] He organized his theology on the thesis that Yahweh's relationship to Israel formed the center of Old Testament faith, and his relationship to the individual and world at large were subordinate themes.[2] The relationship between Yahweh and Israel was conceived of as a 'covenant.'

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[1] Beiträge z. isr. u. jud. Religionsgeschichte I, II (1896); as reported by G. von Rad, Das Gottesvolk im Deuteronomium, (Stuttgart: W. Kohlhammer, 1929), p. 23.

> Wherever the relationship with God has the character of a relationship of grace, that is to say, it is founded on a primary act in history, maintained on definite conditions and protected by a powerful divine Guardian,...the spiritual premisses of a covenant relationship with God are manifestly present.[3]

The covenant was a reciprocal arrangement in which the human partner accepted obligations to God and God pledged his help. He had entered the covenant freely and could dissolve it if Israel did not fulfill its obligations.[4] The obligations were enunciated in law.[5] The covenant was the starting point of Israel's history and the framework for the life of the people.[6]

Deuteronomy and the Priestly source constitute antithetical directions in the late revival of the concept of covenant. Deuteronomy emphasizes the legal character of the relationship and national particularism, while the Priestly writer makes the covenant pure grace and emphasizes a universalistic note. Both tend to interpret covenant as a timeless relationship divorced from its historical starting point.[7]

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[1] Walther Eichrodt, Theology of the Old Testament, 2 Vols. Trans. J. Baker, (London: SCM Press 1961).

[2] Ibid., p. 33. [3] Ibid., p. 36f.

[4] Ibid., p. 44, et passim. [5] Ibid., p. 38f; Parts III, IV.

[6] Ibid., p. 40f. [7] Ibid., pp. 52-58.

Mendenhall and Baltzer. George Mendenhall and Klaus Baltzer were responsible for discovering the close analogy in form and conceptuality between the covenant and the Hittite suzerainty-vassal treaty.[1] Both of them based their work on Korošec's analysis of Hittite international treaties.[2] He differentiated between parity treaties between emperors and suzerainty-vassal treaties between emperors and the subject rulers of the empire.[3] It was the latter type of treaty which was associated with the Old Testament covenant. Its form contained the following parts: preamble, historical prologue, stipulations, provision for deposit in the temple of the vassal, and periodic public reading, a list of gods as witnesses, and curses and blessings.[4]

Mendenhall found these elements within the Sinaitic narrative. He identified the decalog (Ex. 20:1-17) as the covenant document *par excellance*. It begins with an identification of the speaker and refers to the gracious deed he performed for his vassal, and the ten commandments proper are imposed upon the people as the demands of the covenant relationship.[1] One can find allusions to the other elements either in the Sinai-Horeb narrative or elsewhere in the covenant tradition.[2] Since a treaty was sealed by an oath, Mendenhall suggested that the concluding rites mentioned in Exodus 24 and elsewhere had that import.[3]

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[1] G. E. Mendenhall, *Law and Covenant in Israel and the Ancient Near East*, (Pittsburg, Pa.: Biblical Colloquium, 1955). Klaus Baltzer, *Das Bundesformular* ("Wissenschaftliche Monographien zum Alten und Neuen Testament," 4. Neukirchen: Neukirchener Verlag der Buchhandlung des Erziehungsvereins, 1960).

[2] V. Korošec, *Hethitische Staatsverträge, ein Beitrag zu ihrer juristischen Wertung* ("Leipziger rechtswissenschaftliche Studien," Heft 60. Leipzig, 1931).

[3] *Ibid*, as cited in Mendenhall, *Law and Covenant*, p. 29.

[4] Mendenhall, *ibid*., pp. 32-34.

Baltzer arrived at similar conclusions independently of Mendenhall. He laid a broader textual basis for the analogy between covenant and suzerainty-vassal treaty. Along with the Sinai pericope and Joshua 24, the two main texts treated by Mendenhall, Baltzer traced the specific elements in Deuteronomy, Exodus 34, and examples in the Deuteronomistic and Chronistic histories and even in Jeremiah. He also pursued the topic into intertestamental literature and the New Testament. He distinguished between texts which recorded the establishment of a covenant relationship and those which recorded its renewal, and between these and a third group of texts which re-affirmed the covenant at the death of one leader and investiture of a new one.[4]

To Korošec's elements Baltzer added one entitled 'Grundsatzerklärung,' a general summary of the relationship between the parties.[5] James Muilenburg pursued a similar line of analysis in a study of Exodus 19:3-8, Joshua 24 and 1 Samuel 12. He found a recurrent tripartite structure: recital of God's grace toward the people, followed by a conditional formulation, if you obey/do not obey, then you will be blessed/cursed.[6] Here we find the conditional understanding of the covenant in its simplest form. The covenant relationship is based upon grace, and will continue if Israel fulfils its duties within the relationship and will be terminated if it does not.

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[1] Ibid., pp. 36-38. [2] Ibid., pp. 38ff. [3] Ibid., pp. 26, 34f, 40.

[4] Op. cit., pp. 11-100. [5] Ibid., pp. 22, 37, and elsewhere.

[6] James Muilenburg, "The Form and Structure of the Covenantal Formulations," Vetus Testamentum, 9 (1959), 347-365.

History of the Covenant. The identification of the covenant between Yahweh and Israel as a suzerainty-vassal treaty in form has significant consequences for the reconstruction of Israel's history. Let us take Mendenhall's conclusions. He believes that the original covenant can be traced back to Moses himself.[1] Joshua 24 records the making of a new covenant which inaugurated the tribal league.[2] The covenant was overshadowed when the tribal league was replaced by the monarchy. The covenant with David, which was modelled on the Abrahamic covenant, usurped the covenant with the people. This covenant could be called a 'covenant of grace,' in which Yahweh bound himself unconditionally to the Davidic dynasty.[3] The classical prophets attempted to revive the conditional understanding of Israel's relationship to Yahweh. "Their messages are in the nature of an indictment for breach of covenant."[4]

The great shock involved in the discovery of Deuteronomy was not the new legislation, but the true nature of the Mosaic covenant:

> It brought home to Josiah and the religious leadership that they had been living in a fool's paradise in their assumption that Yahweh had irrevocably committed Himself to preserve the nation in the Davidic-Abrahamic covenant. Moses was rediscovered after having been dormant for nearly three and a half centuries. The commands of the religious law had a new urgency behind them when it was seen that the covenant provided for curses as well as blessings (2 King 22:13).[5]

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[1] Op. cit., pp. 36ff. [2] Ibid., pp. 41f. [3] Ibid., pp. 44-46.

[4] Ibid., p. 46. [5] Ibid., pp. 47f.

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Deuteronomy does show some influence from the intervening centuries: Moses speaks rather than Yahweh, the law is a civil law, the gracious deeds at the basis of the covenant are now in the remote past, and the conditional structure of the covenant has become an abstract principle of rewards and punishments.[1]

This description of the history of the idea of the covenant presupposes an entirely different model of history from Wellhausen's. Early Israel was not primitive culturally, but formed its alliance in the legal language of the advanced culture of the Hittites. Later history involved the deviation from and then a return to the founding principles of the people.

Norbert Lohfink would set Wellhausen's theory of development from a natural to a moral relationship between Yahweh and Israel upside down.[2] The relationship between Yahweh and Israel was first conceived in terms of a suzerainty-vassal treaty.[3] The treaty is a legal relationship, so it is incorrect to see the legal relationship arising late. This legal conceptuality preserved Israel from 'natural religion' either in the form of agricultural or nationalistic pantheism.[4] The historical prolog of the covenant had the purpose of demonstrating Yahweh's authority to impose law, and Israel's obedience or disobedience to the law determined the future between the two partners.[5]

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[1] Ibid., p. 48f.

[2] Norbert Lohfink, "Die Wandlung des Bundesbegriffs im Buch Deuteronomium," Gott in Welt, Festgabe für K. Rahner, I, Johannes Baptist Metz, Ed. (Frieburg: Herder, 1964), p. 426.

[3] Ibid., p. 426-28.

[4] Ibid.

[5] Ibid., pp. 428-31.

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But the covenant concept was no more than an analogy and like all analogies had certain dangers. It had the danger of limiting Yahweh to a particular history, and of binding his activity to fixed categories of reward and punishment.[1] Deuteronomy specifically expands the dimensions of Yahweh's activities and challenges all claim of a right to his salvation. Moreover, in the exilic period the covenant categories were stretched to the breaking point to allow Yahweh to reclaim his people, even giving it a new heart to fulfil the demands of the covenant.[2]

Theology. Walther Eichrodt has recently written a study of 'covenant and law' in which he evaluates the situation created by the association of the covenant with the Hittite suzerainty-vassal treaty.[3] He accepts the hypothesis enthusiastically. On this basis, he believes, the law can be seen to be intrinsically related to the covenant. The covenant demands as well as past deeds and promises are a part of the saving will of Yahweh.[4] The basic requirement of the relationship is enunciated in the first commandment, but the relationship reaches out to encompass the whole of life.[5] A curse stands behind the covenant obligations. The prophets did not announce a new thing when they proclaimed communal judgment, for that was threatened as a possibility from the beginning.[6] Neither the fact of obligation nor the possibility of judgment should be interpreted as legalism.[1]

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[1] Ibid.

[2] Ibid., pp. 432-44.

[3] Walther Eichrodt, "Bund und Gesetz," Gottes Wort und Gottes Land, H. Graf Reventlow, Ed. (Göttingen: Vandenhoeck and Ruprecht, 1965), pp. 30-49.

[4] Ibid., pp. 38-41.

[5] Ibid., pp. 38-40.

[6] Ibid., pp. 42f.

Throughout this period Martin Noth and Gerhard von Rad have stood somewhat apart from the stress on the conditionality of the covenant. Noth has argued that the law was not only a part of the covenant, but received its validity from the covenant, which was a gracious gift.[2] Von Rad understands the covenantal law to have a paranetic and paracletic significance. That is, it guides Israel in her life within the covenant.[3] Moreover, the law covers only the minimum requirements owed to Yahweh.[4] It was easy to fulfil, hardly a radical threat to life. These considerations lead to the conclusion that Old Testament law was not 'law in the theological sense.'[5] This judgment applies to Deuteronomy as well:

> The threat to Israel's state of grace does not come from law. It is not the question of Israel's ability to fulfil this that worries these paraneses, but rather of her possible refusal so to do.[6]

Von Rad does not deny that there is a conditional element in Deuteronomy, but this element does not significantly qualify God's grace.[7]

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[1] _Ibid_., pp. 41f, 43f.

[2] Martin Noth, "The Laws in the Pentateuch: Their Assumptions and Meaning," _The Laws in the Pentateuch and Other Essays_ (Edinburgh and London: Oliver and Boyd, 1966), (Henceforth: _Essays_), pp. 38ff., and elsewhere.

[3] Gerhard von Rad, _Old Testament Theology, II_; _The Theology of Israel's Prophetic Traditions_ (Edinburgh and London: Oliver and Boyd, 1965).

[4] _Ibid._, I, pp. 194f. Dt. discovered the unity of the divine will: _ibid_., p. 200.

[5] _Ibid_., pp. 200f.

[6] _Ibid_., II, p. 393.

[7] _Ibid_., I, p. 230.

The Sovereign-Subject Model

Several studies of covenant and law of the last decade have been highly critical of the attempt to correlate the covenant between Yahweh and Israel with the Hittite treaty between a suzerain and his vassal. A close scrutiny of the Biblical and ancient Near Eastern texts reveals serious discrepencies. The discrepencies are greatest when the various Sinaitic accounts are compared to treaty texts. The inadequacy of the suzerain-vassal model for the 'classical' covenant, i.e., the older accounts of the making of a covenant at Sinai, demands a new examination of the structure of the covenant and the exploration of other models to interpret it. It is our belief that the model of a sovereign to his subjects suits the evidence more adequately than the suzerain-vassal treaty. The evidence points to an *intra*national rather than an *inter*national type of relationship, the relationship of a king to his people rather than an emperor to a subordinate state.

Criticism of the Suzerain-Vassal Model. Probably the most potent and influential studies of covenant and law to challenge the Mendenhall-Baltzer thesis have been submitted by Dennis McCarthy, Erhard Gerstenberger, and Rudolf Smend, Jr. While these men have not arrived at identical conclusions, they have moved along similar lines and are mutually supporting.

Dennis McCarthy, in his dissertation, *Treaty and Covenant*,[1] has challenged the Mendenhall-Baltzer thesis on the basis of a comparison of the treaty 'form' to the covenant 'form.' His study is divided into two parts, an extensive analysis of the extant international treaty texts and an examination of Biblical covenant passages for the elements of the treaty form. His examination of the A.N.E. treaties comes to the conclusion that

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[1] Dennis McCarthy, S.J. *Treaty and Covenant. A Study in Form in the Ancient Oriental Documents and in the Old Testament* ("Analecta Biblica" 21; Rome: Pontifical Biblical Institute, 1963).

> we find in the treaties a common basic structure with the overlord proclaiming a set of stipulations and the underling obliged to accept them under divine sanction. This surely reflects a ratification ceremony involving the announcement of the terms and the vassal's taking an oath before the gods to observe them. This double movement is basic.[1]

Within the basic unity, there is a diversity between Mesopotamian first millennium B.C. and Hittite second millennium B.C. treaties.[2] The Hittite treaties often normally possess an historical prolog reviewing the relations between the treaty partners. In the suzerainty-vassal treaty, the review might emphasize the suzerain's graciousness or the vassal's or his father's previous conduct as an example or warning.[3] The Assyrian and Aramean treaties lack this element almost entirely.[4] The Hittites tended to append historical reviews of royal deeds to several different types of legal documents.[5] Hittite treaties mention divine sanctions in only a general way, while the Assyrian and Aramean treaties expand the sanctions into the largest element of the text and often connect them with symbolic rites.[6]

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[1] *Ibid.*, p. 95.

[2] *Ibid.*, pp. 104-6.

[3] *Ibid.*, pp. 98-102.

[4] *Ibid.*, p. 98.

[5] *Ibid.*, p. 99.

[6] *Ibid.*, pp. 102-4.

McCarthy's examination of Biblical texts begins with Deuteronomy. He finds the elements and thought structure of treaty in the basic stock of Deuteronomy. In fact, the book as a whole and the paranetic formularies of the introduction (Dt. 6-11) follow the treaty schedule.[1] The treaty structure and mentality can also be found in the Deuteronomistic framework of Deuteronomy, and Joshua 24 and 1 Samuel 12.[2] McCarthy observes, however, a different spirit in the Biblical texts from treaty documents: teaching and admonition predominate over the strictly legal aspects.[3] To the extent that these traditions are paranetic, they stand apart from true treaties.[4]

Thus far McCarthy's analysis does not differ substantially from the proponents of suzerainty-vassal model. However, when he examines the Sinaitic traditions, McCarthy's results deviate significantly from Mendenhall, Baltzer et.al. First of all, theophany stands in place of the historical prolog of the treaty. Yahweh's saving deeds are occasionally mentioned, but they have no real place in the proceedings and have entered the traditions late.[5] The theophany does involve a revelation of the imperative will of Yahweh, but the liturgical character of the decalog sets it apart from any treaty.[6] The decisive difference is the lack in the Sinai-Horeb traditions of any blessings and curses, and instead there is a strong emphasis on religious rites which symbolize fraternity and physical kinship between Yahweh and the people.[7]

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[1] Ibid., pp. 109ff. [2] Ibid., pp. 131ff. [3] Ibid., pp. 117f, 131ff.

[4] Ibid., p. 149. [5] Ibid., pp. 155-57, 160f, 166f.

[6] Ibid., pp. 159f [7] Ibid., pp. 161-63.

The Sinai-Horeb tradition

> reveals an idea of covenant which is somewhat different from that exemplified in the treaty. The manifest power and glory of Yahwe, ceremonies effecting a union, these are the things which ground and confirm alliance more than history, oath, threat, and promise. It is an idea of covenant in which the ritual looms larger than the verbal and contractual.[1]

In E there is an acclamation by the people of the proffered covenant,[2] but J has nothing of that sort:

> For J the will of Yahwe, whose terrifying power and majesty have been manifested in His descent upon the mountain, is enough to ground the covenant. It is binding without need of any appeals to favors..(or) manifestation of acceptance by His subjects.[3]

Regarding the history of the covenant form, McCarthy concludes that

> Contrary to the normal process in which a form is clearest and most rigid in its older examples, the covenant form develops and reaches its flowering in Dt.[4]

Erhard Gerstenberger has challenged another underpinning of Mendenhall's thesis by his study of apodictic law. Albrecht Alt had argued that apodictic law was indigenous Israelite Yahwistic law which was proclaimed as a part of the ceremonial renewal of the covenant between Yahweh and Israel.[5] This thesis provided secondary support for Mendenhall's thesis that the decalog, a collection of apodictic law, was a covenant document.[6]

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[1] Ibid., p. 163.   [2] Ibid., pp. 160f.

[3] Ibid., p. 166.   [4] Ibid., p. 174.

[5] Albrecht Alt, "The Origins of Israelite Law", Essays on Old Testament History and Religion, R. A. Wilson, Trans., (Oxford: Basil Blackwell, 1966), (Henceforth: Essays), pp. 125-129.

[6] Cp. Mendenhall, op. cit., pp. 6ff. Alt's findings did not support Mosaic origin, only the covenant setting.

Gerstenberger has challenged Alt's derivation and characterization of apodictic law. He argues that in apodictic law we do not have law at all, but moral instruction.[1] On the basis of Biblical and extra-Biblical parallels, Gerstenberger traces this instruction to the clan.[2] At a later date, when the patriarchal structure of the clan was weakening, it was passed on to the wisemen and the cultus.[3] The accumulation of proscriptions into long, heterogenous series such as the decalog is a late development in the history of the form, for the short, homogenous series show evidence of being the original type.[4]

Gerstenberger's major contribution to understanding the classical covenant does not lie, however, in his derivation of apodictic commandments. In fact, his attempt to expunge them from the classical covenant accounts is largely unsuccessful.[5] However, his argument against Mendenhall's equation of the ten commandments with the stipulations of a treaty is very telling:

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[1] Erhard Gerstenberger, *Wesen und Herkunft des "apodiktischen Rechts"* ("Wissenschaftliche Monographien zum Alten und Neuen Testament," 20. Neukirchen: Neukirchener Verlag des Erziehungsvereins, 1965), p. 25f.

[2] *Ibid*., pp. 110ff.   [3] *Ibid*., pp. 141ff.   [4] *Ibid*., pp. 77ff.

[5] Gerstenberger, *ibid*., pp. 55ff, tries to remove most of the apodictic prohibitions from Yahweh's mouth and *ibid*., pp. 70ff, tries to show that most of them do not address the people of Israel. He evidently considers their placement in the covenant to be the last stage of their evolution: *ibid*., 141ff. Much of his analysis appears to be arbitrary and ignores the actual setting of the law. Apodictic prohibitions appear in every covenant legal tradition and must be considered to have been a part of this tradition from its inception. The clan-location of this law must belong to its pre-Israelite stage.

> This is an impossible construction, since Yahweh's partner in the covenant always is the people of Israel. Consequently the commandments which control the affairs of 'everyone and his neighbor' cannot be explained on analogy with the 'treaty stipulations' which aim at regulating the relations of covenant partners alone.[1]

The laws governing the relations of 'everyone and his neighbor' address a different party, viz., Israel distributively, from the party which is in covenant with Yahweh, viz., Israel collectively.[2]

This incongruity between covenant law and treaty stipulations has been recognized by numerous scholars,[3] but it has been glossed over by an appeal to collective responsibility for the acts of individual members of the people. For example, Mendenhall asserts:

> Since the covenant was upheld and protected by Yahweh Himself, the community had to protect itself from divine punishment for any breach of covenant committed by a member of the community.[4]

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[1] Erhard Gerstenberger, "Covenant and Commandment" Journal of Biblical Literature, 84 (1965) (Henceforth: JBL), p. 47; cp. "Apodiktischen Rechts" pp. 70ff.

[2] Gerstenberger uses the discrepancy between law governing each man and his neighbor and treaty stipulations to argue for the non-covenantal character of this type of law. We are arguing that, inasmuch as such law is found everywhere in covenant tradition, it is more appropriate to revise our interpretation of covenant. Gerstenberger's own view of covenant-making is that originally covenants were for specific purposes and contained only one or two 'provisions' of a religious character: "Apodiktischen Rechts," pp. 105-109.

[3] That is, a large number of scholars have recognized that an individual, not the entire people, were addressed in apodictic law: e.g., Albrecht Alt, "The Origins of Israelite Law," Essays, p. 125. G. E. Mendenhall, Law and Covenant, p. 16. D. N. Freedman, "Divine Commitment and Human Obligation. The Covenant Theme, "Interpretation, 18 (1964), pp. 427f, (Henceforth: Int.). W. Zimmerli, The Law and the Prophets. A Study of the Meaning of the Old Testament, R. E. Clements, Trans. (Oxford: Basil Blackwell, 1965), p. 56, cp. also pp. 46ff.

[4] Mendenhall, ibid., p. 8.

The plausibility of this solution has foreclosed examination of the concept of responsibility. However, at least one study, "Legal Aspects of Corporate Personality," by J. R. Porter,[1] has been devoted to the question of corporate responsibility. His conclusion is:

> As far as the whole Hebrew legal system is concerned, there seems little reason to depart from the picture suggested by the Book of the Covenant that the law operated on the basis of the individual rather than the group, and was concerned to fix individual guilt and inflict individual punishment.[2]

Nor is Yahweh's justice any less discriminating than the court's.[3]

Finally, Rudolf Smend, Jr., has contributed a reconstruction of the origin of the covenant formula, viz., "Yahweh (is) the God of Israel, Israel (is) the people of Yahweh," and an investigation of the institutional structure of pre-monarchical Israel, the era in which the covenant arose and played a direct role in Israelite life. Both of these studies provide possibilities for the analysis of the model of the covenant.

Smend argues that the covenant formula originated in a religious ceremony. Dt. 26:16-19 contain a report of a liturgical act in which Israel acclaims Yahweh as its God and Yahweh acclaims Israel as his people.[1] In attempting to determine the origin of the ceremony, Smend posits the thesis that the covenant formula could have come into being when the relationship between Yahweh and Israel was not yet self-evident or when it was no longer self-evident but not when it was self-evident.[2] His analysis of the earlier literature leads him to the conclusion that the formula could not have come into being until the institutions of the tribal league and war of Yahweh had coalesced in the monarchy of Saul.[3] By then, however, the relationship was self-evident. Hosea was the first to combine the two parts of the formula, first in an inverted form (Hos. 1:9), and then reversed in a promise of salvation (Hos. 2:25).[4] Josiah appropriated the combined formula from Hosea in an attempt to begin Israel's life in Yahweh anew.[5] His liturgy was taken up into the book of Deuteronomy in a later editing.[6]

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[1] J. R. Porter, "The Legal Aspects of the Concept of 'Corporate Personality' in the Old Testament", Vetus Testamentum, XV (1965) pp. 361-380, (Henceforth: VT).

[2] Ibid., p. 379.

[3] Cp. ibid., p. 380, et passim. Mendenhall's distinction, op. cit., p. 4, 8ff., between religious and legal obligation would allow for individual responsibility in secular law and corporate responsibility before Yahweh, but this distinction appears to be a scholarly fiction to account for the discrepancy between evidence and model.

In his monograph, Yahweh War and Tribal Confederation, Smend argues that the tribal league was a distinct institution from the war of Yahweh. The tribal league was a large, loose association of tribes devoted to the worship of a common God and the preservation of peace among member tribes.[7] Wars of Yahweh involved the able-bodied men, a civil militia, of an area in which there was friction and conflict between Israelites and non-Israelites.[1] Although there were religious aspects to a war of Yahweh, there was an unrepeatable event at the center. The chief official of the tribal league was the so-called 'minor judge,' the only truly judicial official mentioned in the books of Judges and 1 Samuel.[2] The war of Yahweh was led by a 'major judge' or 'charismatic leader.'[3] The Rachel tribes play a special role in the war of Yahweh, whereas the tribal league had its origin in the six tribe league of the Leah tribes.[4] The exodus from Egypt was the archetype of the war of Yahweh, whereas the covenant made at Sinai was the aetiology of the tribal league.[5]

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[1] R. Smend, Die Bundesformel ("Theologische Studien" 68; Zürich: Evz-verlag, 1963), pp. 6-10.

[2] Ibid., p. 10.

[3] Ibid., pp. 11-18, 19f.

[4] Ibid., pp. 24-26.

[5] Ibid., pp. 25f.

[6] Ibid., p. 26.

[7] R. Smend, Yahweh War and Tribal Confederation, Tr. Max Gray Rogers, (New York: Abingdon Press, 1970), pp. 13-25, 32-42.

The Need for a New Model of Covenant. The work of McCarthy, Gerstenberger, and Smend points up the need of a new method for approaching the covenant between Yahweh and Israel. The suzerain-vassal treaty hypothesis proposed a conceptual model as well as a form-critical analysis. The form-critical identification of the covenant and the suzerain-vassal treaty was the prime support for the identification of the suzerain-vassal relationship as the model of the covenant. Now the form-critical basis of this model has crumbled and left the hypothetical model suspended in the air.

From this experience we must recognize that the strictly form-critical approach to the determination of the conceptual model of the covenant has proven inadequate. The very attempt to interpret the covenant materials as elements of a treaty form has tended to discourage precise form-critical analysis of the covenant narratives and law and to import elements and concepts from the treaty form which are lacking in the text. At this stage of the inquiry form-critical analysis of the covenant as a whole does not appear to be possible or desirable, although such analysis can be made of the various parts.[1]

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[1] Ibid., pp. 13-25, 26-32.

[2] Ibid., pp. 43-75.

[3] Ibid.

[4] Ibid., pp. 98-108.

[5] Ibid., pp. 109-119, cp. pp. 120ff.

A model analysis is possible, using an exegesis of the content, language, and illocutionary aspects of texts in tandem with formal analysis. We can design our models and formulate relevant questions of the texts precisely enough to yield moderately certain results. On the basis of the critical studies of McCarthy, Gerstenberger, and Smend, we can see that we need a model in which the relationship between Yahweh and Israel is

a) based upon the manifest power of Yahweh and rites of fraternity, rather than upon history, oath and divine sanctions,

b) governed by divine law regulating both the duties of the society to Yahweh and of its members to each other, rather than solely duties of the society to Yahweh, and

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[1] The attempt to find an overall form for the covenant material has called our attention to its recurring components, but it has obscured the 'forms' of each component. The 'covenant' is actually a name for a group of associated forms: events, rituals and paranesis establishing the divine claim on Israel and validating the relationship between them and the promulgation of law. The diversity among the texts makes a more specific characterization or formal description impossible. The relative paucity of accounts also makes the establishment of a 'covenant form' difficult, especially in view of the fact that no two texts agree formally.

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c) protected by Yahweh acting as a 'judge,' rather than by the judicial system from the divine wrath.

Moreover, we need a model which corresponds to the legal, social, economic and political situation of pre-monarchical Israel. We should be able to see the gradual changes of the covenant as a transformation of one model into another in response to the changing empirical reality.

The Design of the Sovereign-Subject Model. Although many scholars have noted that Yahweh took the place of a king in the pre-monarchical period of Israelite history,[1] only Martin Buber has offered a comprehensive interpretation of the covenant according to the model of sovereignty.[2]

> The unconditioned claim of the divine Kingship is recognized at the point when the people proclaims JHWH Himself as King, Him alone and directly (Ex. 15:18), and JHWH Himself enters upon the kingly reign (Ex. 19:6). He is not content to be 'God' in the religious sense. He does not want to surrender to a man that which is not God's,' the rule over the entire actuality of worldly life: this very rule He lays claim to and enters upon it; for there is nothing which is not God's.[3]

Buber designates the ברית between Yahweh and Israel a 'kingly covenant'[4] and associates it directly with the tribal league:

This confederation of tribes which called itself Israel, dared

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[1] See especially H. Wildberger, *Jahwes Eigentumsvolk, eine Studie zur Traditionsgeschichte und Theologie des Erwählungs-gedankens* ("Abhandlunger zur Theologie des Alten und Neuen Testaments," 37; Zurich: Zwingli Verlag, 1960), pp. 80ff. The images of sovereignty among the gods, explored by A. Alt, "Gedanken über das Königtum Jahwes," *Kleine Schriften zur Geschichte des Volkes Israels*, (Henceforth: *KS*), I, (Munich: Ch. Beck'sche Verlagsbuchhandlung, 1953 & 1959), pp. 345ff., has little to do with sovereignty over Israel: Wildberger, *loc. cit*.

[2] Martin Buber, *Kingship of God*, (New York: Harper and Row, 1967).

[3] *Ibid*., p. 119

[4] *Ibid*., 121ff.

> as a people, first and once-for-all in the history of peoples, to deal seriously with exclusive divine rulership.[1]

Unfortunately for Biblical studies, Buber did not make a very convincing case for his suggestion and it has been by-passed by serious scholars. It is our purpose in the present study to demonstrate that a precise and exhaustive analysis of the texts reporting the making of the covenant at Sinai will yield a sovereign-subject relationship. We arrived at this model independently of Buber. It arose out of the attempt to interpret the substantive discrepancies between the covenant and the treaty.

In order to design our model precisely, we must define sovereignty. Internal sovereignty is the power to command and to enforce one's commands.[2] External sovereignty is the power to make war and carry on diplomatic relations with other sovereignties. Since the covenant posited the internal structure of the people of Israel, we shall be interested in internal sovereignty.

Internal sovereignty is the authority to make law and enforce it within a society. A 'legal community' is a society which recognizes a common law-making authority and common law. The recognition of a common sovereign is the basis of the existence of a legal community. Sovereignty may be established by custom, law, force, or appeal, or a combination of these. Sovereignty continues as long as a society recognizes a particular will as binding upon it, i.e., a will which it is obligated to obey simply because that will is authoritative.[1]

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[1] Ibid., p. 119.

[2] Dennis Lloyd, The Idea of Law, (Baltimore: Penguin Books, 1964), pp. 170ff.

Sovereignty depends upon recognition by the corporate legal community. Sovereignty is not simply over individuals, but over a group. Whether or not sovereignty is thought to derive from the collective, it represents collective interests. A community has only inchoate selfhood. In order to attain internal order there must be a person or body which can impose an articulate will upon the community and which has the force to subdue recalcitrants. This will is the locus of sovereignty in the community. Persons form a legal community by recognizing a common law-giver and arbitrator. The sovereign claims authority which no member qua member can claim. He seeks to transcend the conflicts between the members of the society in order to mediate between them. His majesty is in no small part dependent upon his transcendence, upon his capacity to formulate law and mete out justice impartially.[2]

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[1] Cp. Lloyd, ibid., pp. 176f, on the circularity of sovereignty and legitimacy: "Sovereignty is invoked to validate law, and then, in turn, law is invoked to create the sovereign."

[2] On the necessity of majesty for the maintenance of sovereignty, and the components of majesty, see R. Niebuhr, The Nature and Destiny of Man, (New York: Charles Scribner's Sons, 1949), p. 267: "This evil can be fully understood only if it is recognized that all governments and rulers derive a part of their power, not only from the physical instruments of coercion at their disposal, but also from the reality and the pretension of "majesty". The uncoerced submission which they achieve, and without which they could not rule (since coerced submission applies only to marginal cases and presupposes the uncoerced acceptance of the ruler's authority by the majority) is never purely "rational" consent. It always includes, explicitly or implicitly, religious reverence for "majesty." The majesty of the state is legitimate in so far as it embodies and expresses both the authority and power of the total community over all its members, and the principle of order and justice as such against the peril of anarchy."

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The sovereign-subject model satisfies the needs mentioned in the foregoing subsection:

a) authority within the community is established by a demonstration of power and trustworthiness;

b) the law governs the relations of each man with his neighbor as well as the duties of the members of society to the law-giver, and

c) the law-giver enforces the law among the members of the society. Moreover, the model suits the evolving structure of pre-monarchical Israelite society quite well. As that society developed from a confederation of tribes without a human sovereign into a kingdom, the covenant would have understandably? naturally undergone a change from a sovereign-subject relation to the suzerain-vassal relation of Deuteronomy.

Before we conclude the design of the sovereign-subject model, we should compare it to the suzerain-vassal model. We can represent these models on a scale of formal, binding relationships. The scale would run from equality on one end to unlimited dominance of one party on the other:

equal-equal __________ suzerain-vassal ______________ sovereign-subject ________ master-slave

The distribution of power becomes progressively unbalanced as one moves toward the right. A parity relationship binds both parties equally. Each retains autonomy and, in the relationships between states, sovereignty. A suzerain-vassal relationship binds the vassal to specified duties to the suzerain.[1] The vassal transfers a degree of his autonomy and sovereignty to the suzerain. He retains autonomy and sovereignty in the domains not covered by the treaty. The suzerain-vassal treaty was a device used in international relations.[1] The treaty basically transferred the power to make foreign policy to the suzerain and left the internal policy of the vassal untouched.[2]

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[1] Cp. McCarthy, Treaty and Covenant, p. 47, on the gradations between parity and suzerain-vassal treaties. We have simply extended his idea of a continuum.

The sovereign-subject relationship binds the subject to obedience to the sovereign without reservation or limitation. The subject possesses, as an individual, no sovereignty, i.e., no power to command, enforce or arbitrate. However, the subject does have the power to dispose of his own affairs within the bounds of the law. The slave has no autonomy, not even the power to determine his own acts and affairs under the law. He is bound to obey his master in all things.[3]

Only the suzerain-vassal and sovereign-subject relationships are serious contenders as models of the covenant between Yahweh and Israel.[4] Let us compare and contrast these models. Sovereignty is a necessary constituent of human community, whereas suzerainty is an occasional one.[5] The one is an international relationship, a relationship between sovereignties, the other is an *intra*national relationship, a relationship of the members of a society to a will recognized by all corporately. The element of force is the crucial determinant in the establishment of suzerainty, whereas sovereignty requires the majesty of custom, law and appeal.[1] The 'stipulations' of the treaty are formulated primarily for the benefit of the suzerain and the furtherance of his interests, whereas the law of a sovereign is formulated for the benefit of the members of the society and the social order as a whole.[2] The scope of the law is much broader than the scope of treaty provisions.

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[1] The Esserhaddon 'oath' imposed upon nobles and guilds of the kingdom, discussed by McCarthy, ibid., pp. 73-76, represents something between suzerain-vassal and sovereign-subject relations, but tends strongly in the direction of the latter.

[2] See the ANE treaty texts: Ibid., pp. 179-205.

[3] The master may be limited by law as to what he may demand of the servant (e.g., cp. Ex. 21:7-11). This limitation is placed upon him by the legal order, it is not inherent in the relationship.

[4] While no one denies the language of 'slavery' for Israel's relationship to its God, it is hyperbolic. Other types of relationships from those enumerated on the scale lack the decisive ingredient of law.

[5] Suzerainty recurs periodically in imperial power politics.

Biblical Warrant for the Sovereign-Subject Model. The relationship between Yahweh and Israel with which we are concerned was designated by the term ברית, which we usually translate by the archaic 'covenant.' The Hebrew Bible applies this term to every conceivable relationship: between two or more private individuals, kings, states or tribes, between a group and an individual, between man and nature, God and nature, God and an individual or family, and God and a people.[3] If there is a common meaning among this great diversity of uses, it is the idea of a formal, binding relationship, usually involving the

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[1] The Hittite treaty to a large extent masked the power realities behind pretenses of paternalistic beneficence and religious sanction.

[2] Of course sovereigns abuse their power, but they usually do it under pretenses of furthering the society's interests.

[3] See under ברית in Solomon Mandelkern, *Veteris Testamenti Concordantiae Hebraicae Atque Chaldaicae*, 6th Ed., (Jerusalem and Tel-Aviv: Schocken, 1964), pp. 234-6.

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expectation of regular, desired behavior on the part of a party to it.[1]

One of the strongest arguments in favor of the treaty model of the covenant is the fact that ברית can often be translated 'treaty.' There are several places in the Hebrew Bible where the term ברית is used of suzerain-vassal treaties.[2] The use of ברית to designate a sovereign-subject relationship is not so well attested. There is, however, at least one example:[3]

> And King David made a covenant with (the elders of Israel) at Hebron before Yahweh, and they anointed David king over Israel (2Sam. 5:3).

This 'covenant' was probably a formal pledge of loyalty and obedience made by the elders, obviously an official delegation acting in behalf of the northern tribes, to David.[4] The inauguration is completed by the elders' anointing of David as king. There can be little doubt but that the formalization of a sovereign-subject relationship is here designated by the phrase 'cutting a covenant.' There are indications

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[1] Cp. Ernst Würthwein, "Der Sinn des Gesetzes in Alten Testament," *Zeitschrift für Theologie und Kirche*, 55/1 (1958), pp. 36-51, (Henceforth: *ZThK*). The debate over the etymology of ברית has been inconclusive. Noth, *Essays*, p. 112, connects it with the Akk. preposition *berit*, 'between.' L. Kohler, in the L. Koehler and W. Baumgartner, *Lexicon in Veteris Testamenti Libros*, (Leiden: E. J. Brill, 1948-1953), suggests the root ברה, 'to eat together.' The idiom, to 'cut a covenant,' can be traced with a fair degree of certainty to the act of dismembering animals in solemnizing covenants: Noth, *op. cit.*, p. 111.

[2] Hos. 12:2, Ez. 17:13-19. Most Biblical examples are parity treaties.

[3] Francis Brown, S. R. Driver, and Charles A. Briggs, *A Hebrew and English Lexicon of the Old Testament*, (Oxford: Clarendon Press, 1959), p. 136, lists 2 Sam. 3:12, 13, 21, Jer. 34:8-14, also Dan. 9:27. One might also consider 2 Kg. 11:17, 2 Chr. 29:10, 2 Kg. 23:3, and Ezr. 10:3 to be 'royal covenants.'

[4] Hans Wilhelm Hertzberg, *I & II Samuel, A Commentary*, Tr. J. S. Bowden ("The Old Testament Library" (Henceforth: OTLib), Philadelphia: Westminister Press, 1964), p. 267.

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that such a practice was characteristic of the northern kingdom.[1]

The responsibilities of the king are enumerated in the royal psalms. He was to establish justice and order in the realm and to deliver and protect the people from its enemies. For example, Ps. 72 reads in part:

> Give the king thy justice, O God,
>   and thy righteousness to the royal son!
> May he judge thy people with righteousness
>   and the poor with justice...
> May he defend the cause of the poor of the people,
>   give deliverance to the needy and crush the oppressor!...
> In his days may righteousness flourish
>   and peace abound...
> May he have dominion from sea to sea...
> May all kings fall down before him,
>   all nations serve him!

When the people requested a king, they told Samuel:

> We shall have a king over us..
>   that (he) may govern us and go out before us
>   and fight our battles (1 Sam. 8:19f).

These two areas of responsibility correspond to the modern definitions of internal and external sovereignty, the power to make and enforce law and arbitrate disputes, and the power to relate to foreign nations and make war.[2] Our concern here is with the former, i.e., internal sovereignty.

In actual fact the Israelite king appears to have had only very limited powers in the domain of law-making and enforcement. M. Noth probably speaks for the majority of scholars when he says:

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[1] Cp. Alt, "The Monarchy in the Kingdoms of Israel and Judah," Essays, p. 245. When Rehoboam made his appearance at Shechem to be made king of the northern tribes, the elders place conditions on their recognition (1 Kg. 12). This suggests a relationship entered into by explicit consent of the governed. It also suggests an attempt to create a 'limited monarchy,' one which was bound to not exercising certain powers.

[2] Lloyd, op. cit., pp. 173f.

> The assumption that the existing law-codes were promulgated by kings arouses serious doubts. In spite of the relatively good and abundant tradition about the history of the Israelite monarchic period which we have in the Old Testament, we nowhere hear of the law-giving activity of the kings.[1]

Likewise, the kings had only limited authority over the lay courts which heard most disputes. At most, they could regularize judicial practice and hear cases appealed to them.[2]

In view of the actual power of the king, it is rather extraordinary that his responsibility for internal order, justice and peace nevertheless defined his office. No matter how limited his actual power, this is the concept of what a king did within his realm. Although he did not possess the requisites of sovereignty according to modern definition, they were attributed to him in the description of his office.

It might be argued that the absence of royal power to make or amend law and to revise judicial practice at will meant that Israel did not have a sovereign according to modern definition. However, since to be a coherent society means to have a sovereign, sovereignty rested somewhere within Israel. The real situation was not that there was no sovereign, but that the human king's sovereignty was severely limited by Yahweh's sovereignty. As we shall see, Yahweh had full law-making

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[1] Martin Noth, "The Laws in the Pentateuch: Their Assumptions and Meaning," *Essays*, p. 14; qualified somewhat in "Office and Vocation," *ibid.*, pp. 243-5. Lloyd, *op. cit.*, p. 170, records his opinion that the absolute monarchs of the ancient world did not possess the full power of a modern sovereign.

[2] Cp. Roland de Vaux, *Ancient Israel, Its Life and Institutions*, (London: Denton, Longman and Todd, 1961), pp. 150-152.

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power and the power of a final court of appeal. The structure of the classical covenant bestowed upon Yahweh the requisites of sovereignty.[1]

It is not our purpose to show that Israel consciously modelled its covenant with Yahweh on the relation of a sovereign to his subjects, but that this was in fact the structure of the covenant relationship. Israel might well have been unaware of the conceptual model it was employing in its relationship with its God. The relationship might have taken the shape it did due to historical and intrinsic factors. In fact, it is very improbable that it was a conscious creation. One of the faults of the Mendenhall-Baltzer thesis is that it rests on the assumption of conscious modelling, a very infrequent occurrence in history. It is the historian's task, says Dilthey, to understand the thoughts and acts of past personages better than they understood them themselves.[2] It would be legitimate to employ the sovereign-subject model to interpret the covenant even if there were no examples of the use of the word ברית for the relationship of a sovereign to his subjects or if Israel possessed a concept of human sovereignty differing entirely from the modern definition. The question would remain open as to what in fact the covenant between Yahweh and Israel was and where in fact sovereignty in Israel was located.

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[1] Yahweh also possessed the powers of external sovereign, at least to the extent that he led Israel in battle in the pre-monarchical period. He also forbade relations with non-Israelite Canaanites (Ex. 23:32f, etc.).

[2] Wilhelm Dilthey, "Die Entstehung der Hermeneutik," Gesammelte Schriften, Vol. 5, (Leipzig and Berlin: B. G. Teubner, 1924), p. 331: "Das letzte Ziel des hermeneutischen Verfahrens ist, den Autor besser zu verstehen, als er sich selber verstanden hat."

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The Test of Models. Having described certain recent studies of covenant and law which we believe point up the need for a new model for interpreting Yahweh's covenant relationship with Israel and having delineated the sovereign-subject model, we need to design the mode of testing its adequacy. We shall design something of a 'crucial experiment' to determine the relative adequacy of various models. The term 'crucial experiment' belongs to the physical sciences. When there are competing hypotheses, the dispute is resolved by means of an experiment which confirms one and fails to confirm the other hypothesis. Oberservations can be inferred from each hypothesis, and the crucial experiment occurs where the inferences are incompatible.

The interpretation of texts is not really an exact science, so we can only perform something analogous to a crucial experiment. We can infer observable evidence from each model and locate the inferences from one model which are incompatible with those of the other. The model which accounts for the evidence most adequately can be said to be confirmed. We propose to test our models against the evidence of each type of text from the covenant tradition:

a) The language, concepts and acts of the narrative and paranetic texts depicting the making of the covenant should differ according to which model is operative. One would expect the titles, images and phrases of the text to differ according to model. One would expect the credentials of sovereignty to differ from credentials of suzerainty: Sovereignty depends more upon beneficial power and majesty while suzerainty depends more upon coercive power and moral obligation. One

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would expect the mode of validating the covenant relationship to differ according to model: Sovereignty requires only the implicit or explicit consent of the governed, whereas suzerainty requires a formal promise of the vassal. Finally, one would expect the obligations of the vassal to the suzerain to be sanctioned by deity, whereas the sanctions of a sovereign would be applied to recalcitrant members of the people rather than the entire corporate legal community. These four types of evidence should work cumulatively to determine the model operative in each covenant text.

b) The examination of *covenantal law* should determine whether it corresponds in form and content to the 'stipulations' of a suzerain-vassal treaty or to the law of a legal community. If the laws were conceived on the analogy of the 'stipulations' of a treaty, one would expect them to be formulated as duties the people as a whole, i.e., the corporate body as the inferior party of the relationship, owe to their God. If Israelite laws were conceived as the commands of a sovereign for his subjects, one would expect them to be addressed to and govern the relations of the members of the community. That is, the law would be addressed to Israel distributively rather than collectively.

c) Finally, we will need to survey the portrayal of *divine sanctions* throughout Biblical tradition to determine whether they correspond to the sovereign-subject or suzerain-vassal model. Since the covenant is between Yahweh and Israel, the divine sanctions would be imposed upon the entire community according to the suzerain-vassal model. Divine sanctions would be imposed upon the violators of the legal order according to the sovereign-subject model.

To begin our study we will need to identify the relevant covenant and legal texts. This, and the source-critical spadework, will be done in chapter two. The heart of the dissertation will consist of five chapters devoted to the three types of texts. In these chapters we shall elicit the answers to our crucial questions. In the final chapter we shall tabulate our findings and attempt to draw a picture of the historical process leading from the classical to Deuteronomic covenant.

EXCURSUS: FURTHER REMARKS ON METHODOLOGY

Our overall approach could simply be called 'model criticism,' i.e., the study of the structure of the covenantal relationship of Yahweh and Israel with the aid of conceptual models. Various recognized scholarly methodologies can be employed in tandem to determine what model is operative in a given text. Broadly speaking, the covenant texts require a different approach from the legal texts and texts portraying divine sanctions.

Covenant Texts. We shall employ the basic stock of exegetical questions to uncover the model employed in the covenant texts. These include exegesis of the content and structure of the pericopes, their vocabulary, the speaker and the addressee, and the illocutionary force of particular statements. Of these, only the last, *viz.*, determination of illocutionary force, needs further explanation.

Language functions on several levels at once. Austen distinguishes between the locutionary, illocutionary and prelocutionary aspects of a statement.[1] The locutionary aspect is what a statement *says*, its descriptive content. The illocutionary force of a statement is what it *does*, what action takes place in the speaking. The prelocutionary aspect is how a statement affects the addressee.

There are several types of illocutionary force a statement may have: constative, commissive, exercitive, behabitive, verdictive. A constative statement is an assertion of a fact. A commissive statement is a pledge or promise of the speaker to the addressee. A exercitive statement is an exercise of authority which brings into being the situation described. A behabitive statement is a declaration of an attitude. A verdictive statement is an authorative judgement on a matter of fact, combining exercitive and constative force.[1] All statements function in one or more of these ways according to content and context.

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[1] Robert W. Jenson, *Knowledge of Things Hoped For*, (New York: Oxford University Press, 1969), pp. 114f.

Biblical scholarship, though not always consciously, has usually taken the illocutionary force of statements into account in the exegesis of passages. We propose only to do so consciously and with an attempt at precision. We consider it a logical further step of form-critical analysis.

Legal and Divine Sanctions Texts. Our methodology for studying the law and divine sanctions will be form-critical. The study of the covenant form has ignored the question of the addressee of the law and divine sanctions. It will be the fulcrum of our analysis of the law and divine sanctions. The distinction between address of an individual and address of the community has proven illuminating in prophetic studies and the same distinction with regard to speakers has proven illuminating in psalter studies.[2] We believe that it will prove illuminating in covenant studies as well. Our method of analysis is simple and objective. One simply asks: Who would comply with this law or suffer this curse? The information yielded by the material in answer to this question is quite worthy of notice. In the law it determines who was held responsible by God.

The use of the distinction between individual and community in psalter, prophetic and now in covenantal studies is controversial, to say the least. It is very commonly objected that such a distinction is invalid for ancient Israel, because ancient Israel possessed a consciousness of corporate personality.[3] Individual and community flow into one another. Mowinckel speaks for a large group of scholars when he says:

> Accordingly we must be prepared to find that other I-laments, and particularly such as use martial terms and metaphors, are actually national psalms of lamentation speaking of national and political conflicts,...What has prevented both Balla and

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[1] *Ibid*., pp. 115-117.

[2] Hermann Gunkel, *Einleitung in die Psalmen*, 2 Vols. (Göttingen: Vandenhoeck & Ruprecht, 1931, 1933). Claus Westermann, *The Praise of God in the Psalms*, Tr. Keith R. Crim, (Richmond: John Knox Press, 1965). Claus Westermann, "Struktur und Geschichte der Klage in Alten Testament" *Forschung am Alten Testament. Gesammelte Studien* ("Theologische Bücherei, Neudrucke und Berichte aus dem 20. Jahrhundert"; Munich: Chr. Kaiser Verlag, 1964), pp. 266ff; Claus Westermann, *Basic Forms of Prophetic Speech,* Tr. Hugh Clayton White, (Philadelphia: Westminister Press, 1967).

[3] H. Wheeler Robinson, *Corporate Personality in Ancient Israel,* (Philadelphia: Fortress Press, 1964).

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> Gunkel from a full understanding of the phenomenon is (a) their lack of a distinct cultic approach, and (b) the mechanical distinction between I-psalms and we-psalms. It is therefore obviously a step backwards when Westermann in his rather formalistic and not very fruitful paper in *ZATW* 66, 1954, adheres to this merely formal distinction without discussing in principle the textual facts pointed out by the present author..[1]

There is no question but that ancient Israel had a much greater sense of corporate solidarity and communal belonging than modern, western man. It is a question how this sense of solidarity operated. The theory of corporate personality has, it seems to us, been used capriciously to efface clear textual phenomena. If the text is the primary evidence, the theory of corporate personality and the way it influenced perception must be argued *to*, not *from*. It must be the result not the presupposition of exegesis. The form-critical distinction between individual and community is not artificial: it is the empirical level on which such theories as that of corporate personality must be built.[2]

Our approach is no more individualistic than alternative ones. It is simply that according to our analysis the three components of the covenant, God, people and individual, are related to each other in a different way from the theory that the law imposed collective duties and divine sanctions. Our analysis indicates that God identified with the people to protect it against the violation of its cultic-legal order by the members of the collectivity.

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[1] Sigmund Mowinckel, *The Psalms in Israel's Worship*, I, (New York: Abingdon Press, 1962), p. 226, plus note.

[2] We agree completely with J. R. Porter's remarks, *op. cit.*, pp. 361ff.

CHAPTER II

THE TEXTS RELEVANT TO OUR STUDY

To begin our study it will be necessary to identify the Biblical passages relevant to the examination of the conceptual model of the covenant between Yahweh and Israel. In the process of identifying each passage we shall give a source-critical analysis of it.

We hope to show that there are two groups of texts relevant to our topic, those which describe or portray the covenant relationship between Yahweh and Israel and those which contain law. The relevance of the former group is self-evident. To demonstrate the relevance of the latter, we shall search for references to law in the covenant texts and evidence of covenant in the legal texts.

Thus, our exegesis of each covenant text will follow, generally speaking, this order:

(1) evidence of its being about the covenant,
(2) source-critical analysis and larger context,
(3) references to law.

Our exegesis of each legal text will follow this order:

(1) identification of the text as law,
(2) source-critical analysis and larger context,
(3) evidence of a covenant setting.

The treatment of any given passage may be weighted toward one or another of these questions and other issues may be treated as well.

Covenant Texts

The clearest indication that a text concerns a covenant is the actual mention of 'covenant,' ברית. The Hebrew word ברית, is employed to denote almost any formalized relationship between any conceivable partners.[1] We are concerned with texts in which the ברית--relationship is between Yahweh and Israel. Most of the texts which we shall treat explicitly denote~~s~~ the relationship by ברית. We shall also examine a few texts which represent the same relationship but lack the term. Texts: Ex. 19:3-8, 24:3-8; 33:12-34:28, 24:1f, 9-11; Josh. 24:1-28; Dt. 26:16-19; Dt. 6-11*; Gen. 17, Ex. 6*.

Exodus 19:3-8, 24:3-8. The term ברית occurs in Ex. 19:5 and 24:7, 8. In Ex. 19:5 we find 'my (Yahweh's) covenant' which Israel is to 'keep'. The covenant is, so to speak, a God-given framework in which Israel is to live. Ex. 24:7 refers to a document, the 'book of the covenant,' which records the rules of the relationship.[2] The following verse describes the solemn act which formalized the relationship. The 'blood of the covenant,' i.e., the blood by which the covenant was sealed, was thrown upon the people and against the altar. In all three cases, the covenant involves both Yahweh and Israel.[3]

Ex. 19:5 belongs to a unit which begins in v. 3 and ends with v.8.

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[1] See B.D.B. under ברית, or another survey of occurrences.

[2] The response of a pledge to obey is comprehensible only if the book contains demands.

[3] The term 'involvement' is vague on purpose: The aim of our study is to come to a more precise delineation of the relationship, so we can hardly provide a precise initial description.

Vv. 3-6 are a divine proclamation to Israel. The proclamation begins and ends with a formal commission formula. Between the commission formulae Yahweh makes a proposal to Israel to the effect that he will make it his people if it will obey him. The people accept Yahweh's offer by pledging to obey him in v. 8. V. 7 is narrative framework.[1]

Ex. 24:7, 8 belong to a unit which begins in v. 3 and ends in v. 8. In 24:1-11 we have two versions of the act of solemnizing the covenant between Yahweh and Israel. According to 24:1f, 9-11, Moses, Aaron, Nadab, Abihu, and seventy elders ascend the mountain and share a meal in the presence of God. According to 24:3-8 Yahweh's demands are reported to Israel, Israel assents to them, an altar and twelve pillars are erected, sacrifices are made, and the blood of the sacrificial animals is thrown upon the altar and upon the people as the law is read.[2]

The narrative strands in the older Sinaitic traditions (Ex. 19-24, 32-34) are quite difficult to analyze and scholars have arrived at radically divergent results.[3] We cannot expect to solve many of the perplexities. We can simply associate related passages and distinguish groups from each other.

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[1] That the pericope continues to v. 8, see H. Wildberger, Jahwes Eigentumsvolk, eine Studie zur Traditionsgeschichte und Theologie des Erwählungs-gedankens, p. 18. W. Beyerlin, Origins and History of the Oldest Sinaitic Traditions, S. Rudman, Trans. (Oxford: Basil Blackwell, 1965), p. 6.

[2] Among others, see Noth, Exodus, in loc.; M. L. Newman, The People of the Covenant, A Study of Israel from Moses to the Monarchy, (New York: Abingdon Press, 1962), pp. 42, 45.

[3] Cp. Muilenburg, op. cit., p. 351.

We believe that Ex. 19:3-8 and 24:3-8 belong to the same narrative source. Aside from the general similarities in style and conception,[1] there is striking agreement in the pledges to obey:

כל אשר דבר יהוה נעשה. (19:8)

כל הדברים אשר דבר יהוה נעשה. (24:3)

כל אשר דבר יהוה נעשה ונשמע. (24:7)

This repetition of essentially the same phrase cannot be fortuitous. The simplest inference to draw is that the two pericopes belong to the same source.

The two pericopes parallel and complement one another. Ex. 19:3-8 sets the act of covenant-making in motion. Yahweh offers the covenant relationship in general terms and if Israel accepts them, he will proceed to communicate his law to them. After Moses has received the law, he proclaims it to the people and they reiterate the pledge to obey (Ex. 24:3f). They solemnize the relationship by sacrifice and sprinkling of blood and a third reiteration of the pledge (Ex. 24:4b-8).

It would be gratifying if we could place these two texts in one of the narrative strands commonly recognized by scholars, but the difficulties are too great.[1] M. Noth cannot identify the source of either.[2] Perhaps we have a miniature strand which includes our two pericopes and Ex. 20:22ff.[3]

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[1] Moses repeats Yahweh's words (הדברים: 19:7, cp. v. 8; 24:3, cp. vv. 4, 8) to the elders (19:7) or people (24:3), who answer: ויען כל העם קול אחד/יחדו (19:8, 24:3, cp. v. 7). Also cp. בני ישראל (19:3, 6; 24:5). Conceptually we have the same type of address and answer involving Yahweh's offer with demands and Israel's assent in the two passages. In fact, within the Sinaitic narratives these two passages alone allow Israel to agree to the covenant and law.

H. Wildberger has challenged the appropriateness of Ex. 19:3-8 in the Sinai-Horeb narrative on the basis that the references to 'my covenant' and 'my voice' (v. 5a) and 'what Yahweh has spoken' (v. 8) are abrupt and premature. He proposes to excise v. 5a and rephrase v. 8

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[1] There is a nearly complete Elohist narrative, using אלהים throughout: Ex. 19:3a, 10?, 14-17, 19, 20:18-21, 1-17, 24:1f*, 9-11. Our passages use יהוה consistently. The Yahwistic narrative can be found in Ex. 19:9, 11b-13, 18, 20, (21-25?), 33:18-34:28*. J seems to be truncated following 34:28, but it cannot be completed by our materials: Noth, Exodus, in loc.

[2] Noth, Exodus, in loc. Noth does not associate Ex. 19:3-8 with 24:3-8, but rather attributes Ex. 19:3-8 to a Deuteronomistic editor. He does associate 24:3-8 with Ex. 20:22ff, an important link in our case.

[3] On the legal texts, see below. The date and origin of this account can only be given roughly. Of 24:3-8, Noth says: "In that case 24:3-8 may be given a literary connection with the Book of the Covenant, as a covenant narrative which would once have been attached to the originally independent "Book of the Covenant" to anchor this law book expressly in the covenant at Sinai. This must already have happened at a relatively early period, as the narrative is evidently quite old,...as is clear in particular from the role of the (non-priestly) 'young men' in the offering of the sacrifice (v. 5).' Wildberger, op. cit., pp. 12ff, likewise characterizes Ex. 19:3-8, minus his excisions, as very old without suggesting a more precise date. He notes that the imagery and language have an archaic flavor. The proclamation contains poetic parallelism. Where the unit shares language with Deuteronomy, it shows evidence of being older than the Dt. parallels. Let one example suffice; Ex. 19:6 employs גוי instead of עם (Dt. 7:6, 26:19) with קדוש. By the time of Dt., גוי was used of foreign nations, עם of Israel: Cp. von Rad, Gottesvolk, p. 10, n. 8.

As to the provenance of this material, all we can say is that it stands in the tradition which Deuteronomy inherited. There are also some striking resemblances to Josh. 24:25-28, where one hears of the 'book of the law of God' in which the 'words' were recorded.

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and remove the pericope from the Sinaitic context as a self-contained liturgy of election.[1] To this D. McCarthy has added the objection to its Sinaitic context that the references to God's deliverance from Egypt and transportation to himself (v. 4) do not suit the event at Sinai, for the highpoint of this event is God's theophany.[2]

It seems to us that Wildberger's proposed excisions and removal of Ex. 19:3-8 from Sinai and covenant are gratuitous. The unit has a definite place in the narrative: it sets the event in motion. The initial agreement to make a covenant is not out of place or premature. McCarthy's observation is correct, but it need not lead to the removal of the pericope from the Sinaitic covenant context.[3]

Ex. 19:5a and v. 8 are clear evidence that the covenant implied law according to this strand. Yahweh offered Israel the opportunity to be his people on the condition that it obey his voice and keep his covenant. In accepting these terms, Israel pledged to do everything he commands. Although the law is not expressly mentioned, it is implicit as that which Yahweh commands. This is made explicit in

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[1] Eigentumsvolk, pp. 35-39.

[2] Treaty and Covenant, pp. 155.

[3] Since our strand definitely speaks of covenant and obedience to God's demands, it may represent a covenant tradition in which a recital of historical deliverances is replacing theophany. Josh. 24 and Deuteronomy are non-theophanic covenant traditions. Even in J and E we encounter references to history (Ex. 34:10, 20:2). We believe that one can observe a slow process of replacement of theophany with history in the covenant. This was not a unilinear development, however, for P re-appropriates the theophanic tradition in an abstract way. -But this topic is outside of the scope of our study: see concluding chapter.

24:3-8, in which the law is read and the people repeat their pledge.[1]

Exodus 33:12-34:28. The term ברית occurs three times in Ex. 34, v. 10 and vv. 27, 28. In v. 10 Yahweh declares simply that he is sealing a covenant, followed by a promise to do marvels for Israel. In v. 27 Moses is told to write 'these words' according to which Yahweh has 'sealed a covenant with you and with Israel.' Thus, in v. 10 the covenant is a divine promise to Israel, while in v. 27 it is a formal relationship between two parties in which the human party owes obedience. We have the secondary problem of whether Moses was a separate party to the covenant.[2]

The exact extent of the unit to which Ex. 34:10, 27 belong is difficult to determine. It clearly ends with v. 28, although the same source may continue into vv. 29ff. The beginning is more problematic. Ex. 34:10 clearly marks something of a beginning to the covenant proper. The preceding verse (*viz*., v. 9) is a request for Yahweh's continuing presence in spite of Israel's rebelliousness. This request appears to be an oblique response to Yahweh's declaration of his grace and justice (vv. 6-7,8). Materially, it appears to refer back to 33:12-16 (17?), a request for Yahweh's accompaniment of his people as they depart from Sinai.[3] Interwoven into our materials also is the narrative of a

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[1] There is some debate as to whether ואת כל המשפטים is original to 24:3, but it is commonly accepted that כל הדברי יהוה which Israel is to do refer to laws: Noth, *Exodus*, *in loc*.

[2] On this, see below.

[3] The issue of Yahweh's continuing presence is the same and the language of election is quite similar. However, there does appear to be a discrepancy, inasmuch as 34:9 is concerned with Israel's sinfulness as a barrier to Yahweh's continuing presence, whereas 33:12-16 apparently assume that Yahweh's natural home is Sinai and this presents a problem.

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private theophany to Moses (33:18-23, 34:5). Ex. ~~2~~33:12-16, 18-23 both assume that Moses is upon the mountain. Ex. 34:1-4 assume that he is in the camp with the people.[1] Whether the latter verses represent an interruption of a unit beginning in c. 33 or are the real beginning is uncertain.

The text is, thus, in disorder and it is uncertain where the pericope begins and whether all or most of 33:12-34:28 belong to the same narrative strand. It is not uncommon for scholars to propose rather drastic reorderings and excisions to achieve tolerable coherence.[2]

There is almost universal agreement that the basic strand is J.[3] We believe that most of Ex. 33:12-34:28 can be attributed to the Yahwist, although the text is somewhat incoherent as it stands. It is probably impossible to reconstruct the 'original' text. The redactions of the text have taken their toll, and the original narrative itself may have been an imperfect combination of divergent traditions. In our estimation the Yahwist attempted to combine a private theophany to Moses with a covenant made with the people.[4] Interwoven with these

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[1] Ex. 34:1, 4 also have editorial material which portrays what follows as a renewal or re-making of the covenant: cp. Noth, Exodus, in loc.

[2] Cp. Noth, Exodus, in loc.; Newman, op. cit., pp. 42ff.

[3] Noth, ibid.; Newman, ibid. J has a version of the theophany to the people: see above, p. 47 n. 1.

[4] We wish to avoid conjectures and historical explanations of textual phenomena, but the thought does occur to us that the ambiguity of v. 27, 'you, Moses' and 'Israel' was created by this combination. If v. 27 was originally a declaration, say in a liturgical setting, to the people, the 'you' would be quite comprehensible. It would only become a problem when it was combined with a private theophany to Moses and a strong emphasis on Moses' intercessory role (33:12ff, 34:9). At any rate, by tacking on 'and with Israel,' the 'you' became 'Moses,' whereas if it

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is the problem of departure from Sinai and Yahweh's continuing presence.

The Yahwistic narrative connects covenant and law very closely. According to Ex. 34:27 the covenant is made 'in accordance with these words,' viz., the laws in 34:11-26.[1] What 'in accordance with' (על פי) means exactly is difficult to say, but we can say that the covenant relationship involved demands upon the people of Israel. Since the laws are obviously valid for the entire people, not just Moses, there can be no question but that the covenant is likewise essentially between Yahweh and the people.

Ex. 34:6-7 are also relevant to the interconnection of covenant and law. Yahweh describes his ways of dealing with men, toward whom he will show grace and mercy, yet whom he will not allow to go unpunished. We have here a promise of divine sanctions against those who violate the law as well as a promise to forgive if he so chooses.[2]

We should also call attention to the recurring election language in our passage: 33:13c, 16, 34:9, 10. Israel is set apart as Yahweh's people (33:13c), Yahweh's inheritance (ונחלתנו) (34:9), distinct from all other peoples (33:16, cp. 34:10). It is Yahweh's

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were not there the 'you' would naturally be taken to be 'Israel' and Moses would disappear as an independent party.

While we are making conjectures, let us add one more. If the Yahwist was an apologist for the Davidic monarchy, his portrayal of Moses might well be understood as an apology for the mediatorial role of the monarch. This would cohere well with the promissory direction of the covenant to be found in J, for certain linguistic and conceptual features are rooted in the theology of Zion.

[1] The presence of a decalog in 34:11-26 appears to be an editor's idea (34:28c): Noth, Exodus, in loc.

[2] How forgiveness and sanctions are to be reconciled is hard to say. It is left up to Yahweh's mysterious freedom to decide (cp. 33:19).

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presence among them (33:16) and his wonders in their midst (34:10bc) which set them apart.[1] Here we are in the same general sphere of ideas as Ex. 19:3-8, although the ideas are not presented as formally or precisely here.

Exodus 24:1f, 9-11, cp. 20:2. Ex. 24:1f, 9-11 lack the specific term ברית. However, the unit clearly narrates an act of sealing a covenant. It is a parallel version to 24:3-8, where the term ברית occurs twice.

The core of the narrative is found in 24:9-11, which describes a covenant meal held upon the mountain of God involving Moses, Aaron, Nadab, Abihu and seventy elders. During the meal they 'beheld God.' Ex. 24:1f are related to vv. 9-11 as command to execution. However, they have been heavily edited. The divine name 'Yahweh' has been awkwardly inserted and Moses has been singled out to go up to Yahweh alone.[2]

If we follow the rule that those passages which employ Elohim as the divine name are Elohist, this version of the act of sealing the covenant belongs to him.[3] To the same source belong one version of the theophany to the people (viz., Ex. 19:10 (?), 14-17, 19), the decalog (20:1-17), and the selection of Moses to act as a mediator (20:18-21).

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[1] This hints at the designations גוי קדוש and ממלכת כהנים.

[2] See Noth, Exodus, in loc.

[3] Ibid, in loc. This is not as common an analysis as one would expect, E.g., Newman, op. cit., pp. 40ff, attributes 24:1f, 9-11 to J, 24:3-8 to E, in direct contradiction to the divine names.

None of these passages contains the word ברית and the act of entering the covenant does not associate the law tightly with covenant. The representatives of the people eat together before God. The law is not mentioned.

However, the strand not only possesses law, it connects the law with Yahweh's theophanic presence and act of deliverance of Israel from Egypt: 20:2/3ff. This simple juxtaposition of self-asseveration and historical recital to God's demands conforms to the pattern of Ex. 19:4/5 and 34:10/11ff. Thus, the Elohist strand does assume the connection of law and covenant, though it is not made as explicit as it is in our other strands.[1]

The Elohist strand also lacks, with one exception, election language. The exception is the divine title, *elohë yisrael* (v. 10). It is not stated how the bond between God and Israel has been made, but this statement presupposes it. Election may be implicit in the direct observation of God which does not harm the observers. They are allowed to see what the Yahwist strand even refuses Moses. It must also be implicit that eating a meal in the sight of God forges a premanent relationship between him and his people.[2]

Joshua 24:1-28. The term ברית occurs in v. 25 of this chapter. It reads: 'Joshua sealed a covenant for or with (ל) Israel on that day.' If one took this statement in isolation, one would be led to believe that the covenant was between Joshua and Israel.[3] This interpretation cannot be entirely excluded, for it would be possible for a covenant to be made between Israel and a leader, say, to remain loyal to Yahweh. Likewise, the second half of v. 25 makes Joshua a law-giver.

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[1] Cp. Noth, "Laws in the Pentateuch," *Essays*, pp. 39f.

[2] Cp. Gen. 26:30.

[3] The same elliptical way of speaking is found in 2 Kg. 23:1-3.

On the other hand, v. 27 clearly indicates that the stone under the oak in the Shechem sanctuary was acting as witness not to a covenant between Joshua and Israel but 'to all the words of Yahweh which he has spoken with us.' On the principle of lectio dificilior, this statement is one of the oldest elements in Joshua 24. It refers to a version of this event which is no longer preserved. Yahweh is the speaker in 24:2-13, a recital of deliverances. But when the narrative takes up Yahweh's demands and the pledges of the people, precisely what the stone would specifically witness to, the speaker is Joshua himself. The divine speaker passes out of the picture entirely.

Thus, if v. 25 is as old as v. 27a, the ברית is between Yahweh and Israel.[1] If, on the other hand, it happened to be as late as 24:14-24, the ברית could well be between Joshua and the people. The decision between these alternatives is of secondary importance to the establishment of the fact that v. 27a does conceive of a covenant relationship between Yahweh, who speaks, and Israel, who is spoken to, in conformity with the Sinaitic traditions.

Joshua 24:27a also demonstrates that the narrative as a whole, Joshua 24:1-28, has undergone one or several drastic revisions. It refers back to an account of the event which is no longer preserved,

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[1] The fact that the law in v. 26 is called the 'law of God' supports the interpretation that the covenant was made between God and Israel and that Joshua was only a mediater of the covenant and divine law.

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unless we have remnants of it in 24:1-13. The concluding part of the verse itself (i.e., v. 27b) belongs to the revised version: 'And it will be a witness among you in case you prove false to your God.' The first person pronoun ('us') has changed to the second person ('you' pl.). This assumes the same partners of dialog as vv. 14-24, Joshua and the people. Moreover, it warns against apostasy, the very subject around which the dialog in vv. 14-24 revolves. This is to be contrasted to v. 27a, which witnesses to what *Yahweh says*.

G. Schmitt has subjected Joshua 24 to an exhaustive study.[1] As to authorship, he concludes that the chapter should be associated with several other passages (the pre-Deuteronomistic framework of Judges, and Judges 6:7-10, 10:10-16, 1 Sam. 7-8, 10:17ff, [(12)], and cp. Ex. 23:20-33) which have a predilection for the phrases 'serve (עבד) Yahweh' and 'serve other gods.'[2] These related phrases occur no less than fifteen times in Joshua 24 (vv. 2, 14_3, 15_4, 16, 18, 19, 20, 21, 22, 24). Schmitt would date these passages around the time of Elijah and situate them in the northern kingdom, because it was in this period and area that the issue of cultic apostasy came to the fore with such vehemence.[3]

Other features of the narrative cohere well with the issue of apostasy. Joshua offers the choice of Yahweh as an either/or decision

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[1] G. Schmitt, *Der Landtag von Sichem* ("Arbeiten zur Theologie" I/15; Stuttgart: Calwer Verlag, 1964).

[2] *Ibid*., pp. 19f.

[3] *Ibid*., p. 32. The 'serve' formula has cultic loyalty in view: see next chapter.

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between Yahweh and the other gods (24:14f). The people respond by confessing Yahweh's saving deeds on its behalf (v. 17f). They preface this confession with an acknowledgement of their debt to him (v. 16). That is, Yahweh's deliverances have obligated Israel to choose him, and not doing so would be 'forsaking him' (v. 16). In vv. 19-24 Joshua tries to inculcate the seriousness of their decision by warning the people that they will not be able to remain loyal and that this will lead to disaster (v. 19f). The people persevere in their resolve (v. 21), witness against themselves (v. 22) and swear to serve and obey Yahweh (v. 24). The stone will also witness against any disloyalty (v. 27b).

To summarize, the present text of Joshua 24 has been formulated to confront the people of Israel with the choice between life and death. The choice it envisages between Yahweh and the gods, the conditions of radical defection it presupposes, and the language which it uses place the text within northern prophetic circles of the ninth or eighth centuries B.C. The author was indicting and warning his own generation.

One must still ask whether we can get behind the present text to an earlier version. V. 27a demonstrates that such a version did in fact exist and provides some clues to what it was like. First of all, it had a divine speaker. This fact suggests that vv. 2-13 derive from the early version, although not *in toto*, for they now have some of the language of the later material (e.g., v. 2c). The unit is baroque, uneven (e.g., v. 5 and v. 6), and once slips into 3rd person Yahweh (v. 7a).

The problem of reconstruction becomes much more acute when we try.

to find hints of an earlier version in vv. 14-24. Yet the necessity of witnessing must have been due to what was said after Yahweh rehearsed his deliverances. R. Smend, Jr., in his study of the covenant formula, suggests the possibility that the acclamation 'Yahweh is our God' (v. 17a 18b) and the appellative, 'Yahweh, the God of Israel' (v. 23, cp. v. 24) preserve a version of the event in Shechem in which Yahweh was acclaimed as Israel's God.[1]

There are a few other candidates for the older version of the narrative. The call to decision (v. 14f) may have antecedents in summaries of the divine will, now to be found only in Deuteronomic and Deuteronomistic paranesis.[2] The warning in v. 19b, 20 looks for a one-sided and modified version of the description of Yahweh's grace and justice which we found in Ex. 34:6f.[3] The pledge to obey Yahweh in v. 24 resembles the pledges in Ex. 19:8, 24:3, 7, and repeats the language of Ex. 19:5a .[4] The admonition to put away other gods (v. 23) might have its origins in older tradition.[5]

These are only possibilities, conjectures based upon parallel phenomena in related passages. All that can be said with certainty is that there was an older version in which 'Yahweh spoke with' Israel, and that this speaking placed demands upon Israel which needed to be witnessed to. This establishes the fact that the covenant in this earlier version implied law. The preceding two verses (viz., vv. 25f) also associate covenant and law. When Joshua makes the covenant, he promulgates a 'statute and an ordinance' (v. 25). According to v. 26 he writes 'these words' in the 'book of the law of God.' In spite of the singulars in v. 25 the text evidently has a plurality of laws in mind ('these words' in v. 26). These laws are no longer preserved in the account.

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[1] *Bundesformel*, pp. 17f.

[2] See below.

[3] It is possible that the threat against the community for apostasy in v. 20 was built upon אש כלה or the very similar אש אכלה, which stands parallel to אל קנא in Dt. 4:24. אל קנא is a part of the Elohist's version of the description of Yahweh's grace and justice: Ex. 20:5, cp. Ex. 34:14.

[4] We will find that 'obey his voice' performs the same function in other texts too.

[5] Cp. Alt, "Die Wallfahrt von Sichem nach Bethel," *K.S.* I, pp. 79-88; G. Schmitt, *op. cit.*, pp. 49-52.

The later version understands the relationship of Yahweh and Israel to involve an obligation of cultic loyalty which is sanctioned by Yahweh. Whether it has in mind specific laws as well is uncertain.

Deuteronomy 26:16-19. This pericope does not contain the key word ברית. Our warrant for including it is its language, setting, and conceptual world. If Ex. 19:3-8 can be considered a key covenant text, Dt. 26:16-19 must be considered covenantal, for they are strikingly similar in many ways. This can be shown by setting the two passages in parallel columns:[1]

Ex. 19:3-8	Dt. 26:16-19
You shall say to the house of Jacob and proclaim to the sons of Israel:	Today Yahweh has acclaimed you..
You have seen what I did to Egypt and how I lifted you on eagles' wings and brought you to myself.	(Credo material in cc. 6-11. cp. 'He will set you high above all nations...in praise, honor. and glory.')

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[1] We have followed the sequence of Ex. 19:3-8.

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And now, if you listen to my voice	This very day Yahweh has commanded you to do his rulings and decisions. Be sure to do them with all your heart and being.
and observe my covenant	- - - - - - - - - - - - - - - - -
you shall be a private possession to me	...to be a people of private possession to him...
among all peoples,	he will set you high above all nations
for all the earth is mine;	he has made, in praise, honor, and glory
you shall be a kingdom of priests	- - - - - - - - - - - - - - - - -
and a holy nation to me.	and you to be a holy people belonging to Yahweh your God.
And all the people said in unison:	Today you have acclaimed
- - - - - - - - - - - - - - - - -	Yahweh to be your God
Everything Yahweh commands we will do.	and sworn to walk..to obey his voice.

We have followed R. Smend, Jr., in translating the hifil of אמר (vv. 17a, 18a), unique to Dt. 26:16-19, as intensive ('to declare solemnly' or 'to acclaim') rather than causative.[1] The linguistic evidence is inadequate to make a determination. One must decide on the basis of context. Would Israel cause God to say that he is its God and God cause Israel to say that it is his people? God does at times say that he is Israel's God[2] and Israel does say that it is God's people.[3]

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[1] Bundesformel, pp. 7f.

[2] In the phrase (אני/אנכי יהוה (אלהיכם/ך: Ps. 50:7, etc.

[3] Ps. 100:3, etc.

If this took place in the ceremony recorded here, each party would be *committing himself*.

For the following reasons the intensive translation is preferable:

(1) The phrase in which Yahweh claims to be Israel's God is a self-introduction, אני יהוה, 'I am Yahweh,' to which אלהיך, 'your God,' is put in apposition.[1] This is not at all the same as 'I am your God.'[2] According to the intensive translation, Israel declares 'Yahweh is our God.'

(2) While Israel does lay claim to being Yahweh's people, it does not establish that status for itself nor pledge to be so. According to the intensive translation, Yahweh declares 'You are a people of private possession to me,' etc.[3]

(3) A causative translation creates confusion regarding the subjects of the object infinitive clauses in v. 17 and vv. 18f. In our translation, only one phrase (v. 18bβ) must be excised on that basis.

If our translation and interpretation is correct, Dt. 26:16-19 is a narrative or report of a solemn act of formalizing a covenant between Yahweh and Israel in which each party acknowledges the other's position in the relationship. R. Smend, Jr., has argued that Dt. 26:16-19 derives from an actual liturgical act in which Josiah and the people of Judah renewed the covenant in 622 or 621 B.C. He hypothesizes that each member of the 'covenant formula,' as this dual statement, 'Yahweh is the God of Israel, Israel is the people of Yahweh,' is called, had a separate origin and were brought together by Hosea and from there taken up into Josiah's liturgy.[1]

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[1] *Bundesformel*, p. 8. Cp. Josh. 24:17, 18, 1 Kg. 18:39, Hos. 2:25b, etc.

[2] Yahweh does say 'I will be their God' in Gen. 17:8, Ex. 6:7, These are P. The question is: Is this an original formulation? Probably not.

[3] Ex. 19:3-6, Hos. 2:25b, cp. Hos. 1:9a, have Yahweh declare this. Throughout the tradition Yahweh is the one who makes Israel his people: Pss. 33:12, 135:4, 44:2-9, Dt. 33:2-5, Ex. 6:7, etc.

We need not concern ourselves with Smend's historical reconstruction or even the question of the Sitz im Leben of Dt. 26:16-19. What is important is that we have a narrative of a solemn act of covenanting. The pericope is distinguishable from the law which precedes it simply by the fact that it is not a law, but a report. It is followed by the inserted c. 27. It is distinguished from all of the original stock of Deuteronomy by being a narrative. Linguistically, on the other hand, it is not distinguishable from Deuteronomy.

It is difficult to establish that Dt. 26:16-19 is pre-Deuteronomic in origin. We shall have to hold the question in abeyance. What we shall endeavor to do in the next chapter is to establish that it possesses a view of the covenant between Yahweh and Israel at variance with the rest of Deuteronomy and in conformity with the Sinaitic narratives.

Dt. 26:16-19 connects covenant and law closely. In the introductory statement (v.16) Israel is called upon to obey statutes and ordinances at Yahweh's command. In the liturgical dialog itself (v. 17) Israel pledges to walk in his ways, keep his laws and obey his voice. Thus, when Israel acknowledges Yahweh as its God, it owns its obligation to obey the law which he has commanded. As Yahweh's people, it owes him obedience.

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[1] Op. cit., pp. 24-26. According to Smend, ibid., pp. 6ff, the original Josianic liturgy consisted of only 'Yahweh is our God' and 'Israel (or you) is my people.' His argument is based solely on Hosea and the desire to penetrate behind the Dt. language of Dt. 26:16-19. These reasons are too weak to rewrite the text so radically.

Deuteronomy 6-11. The nature of this material requires that we take a somewhat different approach from the one taken toward the passages treated above. In Dt. 6-11 we have a series of sermons that employ material with which we have become familiar in the foregoing passages. Let us (a) begin our analysis of it by stating our critical views regarding Deuteronomic authorship and (b) follow this with a categorization of the materials.

a) The identification of the book of Deuteronomy with the law book found by Hilkiah the priest in the temple in 622 or 621 B.C. and later promulgated by Josiah (2 Kg. 22f)[1] was a major breakthrough in the development of the Graf-Wellhausen source-critical hypothesis and still forms the fulcrum of the higher criticism of the Pentateuch.[2] Although there have been a number of attacks on this identification,[3] it is accepted by the great majority of scholars today.[4] The specific provision which is shared by the book and the Josianic reformation is the elimination of all Yahwistic sanctuaries but the temple at Jerusalem (Dt. 12, and elsewhere, and 2 Kg. 23:8, 15, 19). Since this cultic policy is singular, there can be little doubt of a material relationship between the Deuteronomic Code and Josiah's policy.[1] There is more general agreement as well. The book of Deuteronomy is a covenant document and Josiah promulgates the lawbook in a solemn covenanting ceremony between Yahweh, himself, and the people (2 Kg. 23:2f).[2] The book of Deuteronomy seeks to renew and purify the relationship of Israel to Yahweh. Josiah's reform was a renewal of allegiance to Yahweh and involved the elimination of non-Yahwistic cult places, objects, and personnel.[3]

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[1] W.M.L. deWette, Disertatio Critica-Exegetica, Qua Deuteronomium A Prioribus Pentateuchi Libris Diversum, Alius Cuisdam Recentioris Auctoris Opus Esse Monstratur, (1805).

[2] Otto Eissfeldt, The Old Testament. An Introduction, (New York: Harper and Row, 1965), pp. 171-176.

[3] G. Hölscher, "Komposition und Ursprung des Dt", Zeitschrift für alttestamentliche Wissenschaft 40 (1922), pp. 161ff, (Henceforth: ZAW).

[4] Eissfeldt, op. cit., pp. 171-76.

It is not our purpose to set the book more precisely within this historical context. This has been the subject of numerous studies. Today it is generally recognized that Josiah was involved in a reform before the book was found.[4] This reform had nationalistic-political as well as religious motives.[5] The Assyrian empire was disintegrating during his early years (640-620 B.C.) and he progressively asserted his

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[1] E. W. Nicholson, Deuteronomy and Tradition, (Philadelphia: Fortress Press, 1967), pp. 6ff.

[2] Noth, "Laws of the Pentateuch," Essays, pp. 41ff.

[3] Nicholson, op. cit., pp. 13f.

[4] Ibid., pp. 7ff.

[5] Th. Oestreicher, Das deuteronomische Grundgesetz ("beitr z. ford. christl. theol." no. 27, 4; Gutersloh, 1923.)

his independence from it.[1] He apparently extended his control north into the territory of the old northern kingdom and intended to re-establish the Davidic kingdom in all of its glory.[2] The book of Deuteronomy probably guided the direction that the national revival took, but did not initiate it nor simply justify it after the fact.[3]

There is reason to believe that the present book of Deuteronomy is not identical with the book promulgated by Josiah in 621. The concluding chapters of the book (cc. 32-34) make no claim to be a part of the legal code but in fact belong to the narrative of the primary history.[4] The original stock must be found within chapters 1-31. The narrative in 2 Kg. 22 would lead us to expect a legal code with curses. The legal code is to be found in cc. 12-26 and c. 28 concludes the code with blessings and curses.[5] These blocks of material are presented as an address of Moses to the entire people. Since c. 27 (excepting perhaps vv. 9f) is not an address of Moses, it is to be considered a later insertion into the work.[6]

Some scholars believe that the original stock contained only the code and blessings and curses.[7] The introductory chapters, according to this group, were added to the code only later. But most scholars consider at least some of the introductory chapters to belong with the code.[1] The 'form' of the book leads us to expect introductory paranesis, law, and concluding blessings and curses.[2] The problem remains as to what part of cc. 1-11 belonged to the original stock. It has long been recognized that there are two introductions to the book: cc. 1-4 and 5-11. This fact has led some scholars to attribute them to different authors.[3] S. R. Driver maintained that they are so uniform in style and thought that no division is justifiable.[4]

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[1] F. M. Cross and D. N. Freedman, "Josiah's Revolt Against Assyria", _Journal of Near Eastern Studies_ 12 (1953), pp. 56-58, (Henceforth: _JNES_).

[2] Nicholson, _op. cit._, pp. 12f.

[3] _Ibid._, pp. 13ff.

[4] _Ibid._, p. 22. The term 'primary history' is borrowed from D. N. Freedman.

[5] _Ibid._, p. 21.

[6] _Ibid._

[7] Eissfeldt, _op. cit._, pp. 231f.

W. Staerk and K. Steuernagel approached the authorship question from another point of departure. Within the introductory chapters, and to a much lesser extent within the code, the second person pronoun alternates between singular and plural. These two scholars attempted to trace the change of pronoun to different authors and/or editions, which they attempted to reconstruct in detail.[5]

M. Noth revolutionized the source criticism of the historical narrative of the primary history with the publication of his

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[1] See Nicholson, *op*. *cit*., pp. 20f.

[2] G. von Rad, "The Form-Critical Problem of the Hexateuch," *Essays*, pp. 26ff.

[3] Wellhausen, as reported in Eissfeldt, *op*. *cit*., p. 176.

[4] S. R. Driver, *A Critical and Exegetical Commentary on Deuteronomy* ("International Critical Commentaries"; New York: Charles Scribner's Sons, 1895), p. lxxii; *Idem*, *An Introduction to the Literature of the Old Testament*, (Cleveland and New York: The World Publishing Co., 1956), 1956), p. 94, (Henceforth: *LOT*).

[5] W. Staerk, *Das Deuteronomium, sein Inhalt und seiwe literarische Form*: *eine kritische Studie*. (Leipzig: J. C. Hinrichs, 1894). C. Steuernagel, *Der Rahmen des Deuteronomiums*, (Halle: J. Kraus, 1894). *Idem*, *die Entstehung des deuteronomischen Gesetzes*, (Halle: J. Krause, 1896).

Überlieferungsgeschichtliche Studien I.[1] Noth suggests that we regard Deuteronomy through Second Kings to be the work of one author writing in the exile.[2] The author received the name 'Deuteronomist,' abbreviated 'Dtr.', and his work the 'Deuteronomistic history.'[3] The author employed older documents in his work, but the work as a whole is to be considered the work of a genuine historian dealing selectively with his materials to trace an historical movement. His purpose was to account for the exile.[4] He incorporated the basic stock of Deuteronomy to set the norm and themes for the rest of his work.[5] The people are about to enter the land of Canaan and he intended to tell the story of their tenure on the land. Moses, just before his death, reveals everything needed by the people for life on the land and threatens them with loss of it if they do not comply. The author begins his work with a retrospect on the events from the departure from Horeb to the encampment near the Jordan (cc. 1-3 of Deuteronomy).[6] This introduction really belongs to his entire history therefore is not to be regarded as an introduction to the Deuteronomic Code at all. The narrative thread connects directly from 3:23-29 to 31:1ff.[7] Dt. 4:1-40 is a somewhat foreign body which serves no purpose in the Deuteronomistic historical work and thus must be a subsequent intrusion.[8]

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[1] Martin Noth, Überlieferungsgeschichtliche Studien I, (Tubingen: Max Niemayer, 1957).

[2] Ibid., pp. 3-12, 91ff.

[3] Ibid., p. 3f. Sigla: Deuteronomy = Dt; Deuteronomist = Dtr.

[4] Ibid., pp. 91ff.

[5] Ibid., pp. 93f.

[6] Ibid., p. 14.

[7] Ibid., p. 38f.

[8] Ibid.

Within cc. 5-30 Noth follows Hölscher's supplementary hypothesis.[1] The basic stock was in the singular address. It was supplemented, perhaps at an oral stage, by subsequent persons, mostly using the plural address. Noth reckons cc. 5, 9:7-10:11, 27, 28:69-30:14, and smaller sections, to be supplements.[2]

Recently G. Minette de Tillesse has identified the plural hand within cc. 5-30 with the Deuteronomistic historian.[3] This identification would simplify Noth's hypothesis somewhat. The Deuteronomistic historian took over and revised the basic stock of Deuteronomy.[4] The plural sections can be shown to stand out linguistically and theologically from the basic stock at certain decisive points. For example, the provision for a single legitimate sanctuary is worded differently in the plural (Dt. 12:5) and the singular (Dt. 12:14).[5] The plural formulation is echoed in other places in the Deuteronomistic historical work (1 Kg. 8:16, 11:32, 14:21, 2 Kg. 16:4, 17:10).[6] Many of the threats of exile in the book of Deuteronomy are in the plural, and the language of these closely parallels the language of the Deuteronomistic historian.[7] The main theme of the historian's work is the guilt and judgment of the people. He inserted an historical retrospect of Israel's rebelliousness in the wilderness as something of an antetype of what was to come (Dt. 9:7-10:11).[1] It is noteworthy that the making of the 'calf' (Dt. 9:16) was the indictment *par excellance* raised against Jeroboam (1 Kg. 12:26f) and the northern kingdom.[2]

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[1] Ibid., p. 16

[2] Ibid., p. 17.

[3] G. Minette de Tillsees, "Sections 'tu' et sections 'vous' dans le Deuteronome," VT 12 (1962), 29-89.

[4] To the basic stock, Dtr. added: cc. 5:1-6:1, 6:14, 16-17a, 7:4, 7-8a, 12a, 25a, 8:1, 19b-20, 9:7b-10:11, 15c-19, 11:2-32*, 12:1-12, 13:1a, 4b-5, 6b, 8a, 14b, 17:16-20: ibid., pp. 34ff.

[5] Ibid., p. 65.

[6] Ibid., pp. 66f. The phrase 'on every hill and under every green tree' (Dt. 12:2) is Dtr. (1 Kg. 14:23, 2 Kg. 16:4, 17:10).

[7] Ibid., pp. 52ff.

The Noth-de Tillesse hypothesis is quite compelling on the whole and we adopt it here as the presupposition of our study. Within cc. 6-26, 28, it is not always possible, however, to tell whether the Deuteronomistic historian added something or simply restated something which already existed in the basic stock before him, so we shall now and then treat the plural sections, and other uncertain pericopes, along with the singular.[3]

b) We must now give evidence that Dt. 6-11 describes the covenant relationship between Yahweh and Israel and makes reference to law. Since the kind of material found in these chapters is somewhat different from the passages treated above, we must show that despite the difference in form there is an identity of substance.[4] If this can be done, the introductory paranesis can be compared with the other passages with

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[1] *Ibid*., pp. 56-63.

[2] *Ibid*., p. 60.

[3] Cp. Nicholson, *op*. *cit*., pp. 33f.

[4] *Re* the forms that may be operative in Deuteronomic preaching, see A. Klostermann, *Der Pentateuch*, (Leipzig: A. Deichertlsche, 1907), pp. 273ff; von Rad, "Form Critical Problem of the Hexateuch," *Essays*, pp. 30ff; *idem*, *Studies in Deuteronomy* ("Studies in Biblical Theology" no. 9; London: SCM Press, 1953), p. 53; N. Lohfink, *Das Hauptebot, eine Untersuchung literarischer Einleitungsfragen zu dtn 5-11* ("Analecta Biblica Investigationes Scientificae in Res Biblicas" 20; Romae: Pontificio Instituto Biblico, 1963), pp. 90ff.

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regard to the model of covenant employed.

We can demonstrate the identity of substance by categorizing the materials of the introductory paranesis according to the categories of material found in the passages examined in the preceding sections of this chapter: (1) review of the sacred history, (2) election formulae, and (3) admonitions to obey the law.

(1) A large portion of the material in Dt. 6-11 has its original home in the speech type identified as the 'historical credo' by G. von Rad in his study entitled "The Form-Critical Problem of the Hexateuchs," originally published in 1938.[1] Only one unit in cc. 6-11 preserves a credo intact: 6:21-23.[2] Otherwise the themes have been broken up and recombined and augmented in various ways. The following is a table of the credo formulae to be found in Dt. 6-11:

Patriarchs
  promise of land: 6:10,18,23b, 7:1, 9:5, (11:9,21), cp. 9:3, (11:25).
  ברית and חסד: 7:12, 8:18, cp. 9:5, (7:8).
  promise of progeny: cp. 10:22.
Exodus: 6:12,21-23a, 7:8,18f, 8:14, (11:2-4), cp. 10:22, 11:11f.
Wilderness: 8:2-5, 15-16, 9:7 (-10:11), (6:16, 11:5-6).
Settlement
  conquest: 6:19, 7:1f,19-20,22-24, 9:1f,3,4-6, (11:23-25), cp. 8:20.
  blessing: 6:18, 7:12-15a, 8:7-10, (11:9),10-12, cp. 6:10c-11, 8:12f.
  fulfillment: 6:10,18, 7:1, (8:1), 9:5, (11:9, 21), cp. 9:3, (11:25).

The book as a whole assumes a point of time within the sequence of events recounted in the sacred history. The call of the fathers, the deliverance from Egyptian slavery, and the wandering in the wilderness lie in the past, and the occupation of the land of Canaan is immediately ahead. The author draws upon the traditions of the events of the past to assure and to motivate Israel and to teach it its place in the world. The author portrays the conquest as a test of faith in Yahweh's promise and the existence on the land after the conquest as a test of its loyalty to its gracious God.

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[1] Translated in The Problem of the Hexateuch and Other Essays, pp. 1-78.

[2] Ibid., pp. 5f.

(2) The author of Deuteronomy nowhere employs the two halves of the covenant formula together. The one half, 'Yahweh is the God of Israel,' is echoed throughout the paranesis. Israel's God is repeatedly called 'Yahweh your God.'[1] In only one place do we find the first person, 'our,' in this phrase:

> Yahweh our God is one Yahweh. (6:4)

This declaration was the original beginning of the book of Deuteronomy according to our analysis. The translation is debated.[2] At any rate, the first pair of words is verbally equivalent to the acclamation of Yahweh as Israel's God. The second pair is probably an affirmation that Israel's God is the true God of all the world.[3] This affirmation is also made in Dt. 7:9:

> Yahweh your God is God.

This is followed by a reference to his grace:

> The faithful God.

Together these affirmations begin the description of Yahweh's grace and

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[1] See Lohfink, *op. cit.*, p. 99.

[2] Our translation follows the Massoretic accents.

[3] S. R. Driver, *Deuteronomy* (ICC), *in loc*.

and justice toward men.[1] A number of other descriptions of Yahweh have the same dialectic of majesty and condescension: 7:21, 9:3, 10:21 and 10:14f.[2]

The other half of the covenant formula, 'Israel is the people of Yahweh,' is made into an act of divine condescension. Dt. 10:14f, the author's programmatic statement regarding Israel's election, brings together Yahweh's majesty and act of election:

> Behold, to Yahweh your God belong the heavens and the heavens of heavens, the earth and all that fills it.
> Yet Yahweh was disposed to love your fathers and he chose their seed after them, you, from all the nations, and so it is today.[3]

This passage connects election with the call of the fathers. The author employs his own terminology, בחר, 'choose,' and אהב, 'love,' for election.[4] In the paranesis, the author uses ברית, 'covenant,' only of the covenant with the fathers.[5]

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[1] That is, it belongs to the same tradition as Ex. 20:5f, 34:6f, discussed above.

[2] This dialectic belongs to descriptive praise; Westermann, *Praise of God*, pp. 124ff.

[3] Ps. 135:3-6 contains an almost identical praise of Yahweh's universal majesty and condescension in election of Israel at the beginning of a hymnic version of the credo. This psalm is normally, perhaps correctly, considered to be dependent upon Deuteronomy: cp. Wildberger, *Jahwes Eigentumsvolk*, p. 12, n. 14.

[4] These two terms have been discussed a great deal. On בחר, cp. Klaus Koch, "Zur Geschichte der Erwählungsvorstellung in Israel," *ZAW* 67 (1955), pp. 206-212, who traces the theme to patriarchal tradition (spec. to Jacob) as evidenced in the Psalms. R. E. Clements, "Deuteronomy and the Jerusalem Cult Tradition," *VT* 15 (1965), pp. 300-312, traces the usage to the Davidic-Zion sphere of traditions. In view of passages like Ps. 46 and Is. 2:1ff, it is possible that 'Jacob' was associated with Zion.

[5] G. von Rad, *Gottesvolk*, pp. 26-28.

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Election is associated with the exodus in Dt. 7:6-8*, where he employs the traditional terms סגלה, 'private possession,' and עם קדוש 'holy people,' along with his own.[1] Dt. 8:5 alludes to the election as the purpose behind the wilderness sojourn.[2] The election will also be actualized in the conquest (9:4-6, cp. 9:3, 7:18ff) and the blessings of the land (7:14a).[3]

(3) We have no pledges of obedience in Dt. 6-11, but we do find admonitions to obey the law.[4] The nearest admonitions to the pledges of obedience are the admonitions to obey the positive law:

(Be sure) to keep the *miswoth*, *q̇uqqim* and *mišpatim*.[5]
Listen to (or = obey) his voice.[6]
Do what is right (and good) in Yahweh's eyes.[7]

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[1] There is a plural interpolation in 7:6-8: 'Not because...with a mighty hand.'

[2] Yahweh's relationship to Israel is compared to a father's nurturing of a son. This simile is used several other places in the O. T.: Ex. 4:22f, Is. 1:2, Hos. 11:1ff, cp. Dt. 14:1. All of these are to a greater or lesser extent election contexts.

[3] At the center of the blessings in Dt. 28, *viz*., v. 9f, the author promises an 'establishment' of the election. The author desires to move behind the material blessings to the ultimate good, the good which is the source and ground of all blessings: cp. G. vonRad, *Gottesvolk*, pp. 23ff.

[4] Cp. Lohfink, *op*. *cit*., pp. 54ff. Most of these admonitions must have had a pre-history in the preaching of the law.

[5] Dt. 6:25, 7:11, 12, etc. See *ibid*. for complete statistics. The three nouns cited are the most common. A few others are used sparsely.

[6] Not in the sg. address of cc. 6-11, but elsewhere: 13:5, 26:14, 17, 28:1, 2, 15, 45. Also in pl. address.

[7] Dt. 6:18, 12:25, 28, 21:9 (13:19 ed.). Also in pl. address.

Walk in (all) his ways.[1]

These admonitions impose the duty of obedience to the positive law simply and directly on Israel. The plural nouns refer forward to the collection of laws in the Code.[2] Not infrequently the admonition is supported by a 'final clause' which assures Israel that the blessing will remain as long as the law is obeyed.[3]

Another important type of Deuteronomic admonition is the summary of the divine will. Dt. 10:12f is formulated as question-answer torah. This suggests that the summaries had their origin in torah, perhaps of a liturgical type.[4] The summaries are organized in two ways, accumulatively (6:13, 10:12f, 10:20, cp. 8:6, (11:13)) and concentratively (6:5, 24, cp. 11:2). Some of the terms of these summaries are unique to Deuteronomy in this capacity, while others are common.[1]

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[1] In singular address: 8:6, 10:12 (with כל), 26:17, 28:9. Also in pl.

[2] Lohfink, *op. cit.*, pp. 55ff, maintains that these nouns do *not* refer specifically to the Code (12-26). מצוה (6:25, 7:11), by which Lohfink would demonstrate that all of Dt. was understood as 'commandment,' is grammatically unconnected to its context and must be considered as interpolation. von Rad, *OTTh I*, p. 221, argues that the sg. תורה indicates that all of the book was understood as 'teaching.' But this word belongs to Dtr., as an examination of occurrences (Dt. 4:44, 17:19, etc.) will show.

The attempt to disengage the paranesis from the Code is fruitless. It is possible that the whole, not just the law, was understood as commanded, but obviously as command is realized in doing, the focus narrows to the law.

[3] Dt. 6:18f, 24, 7:11/12b, 8:6ff, 10:13, and the Code. Also in pl. address.

[4] Cp. Dt. 10:12f with Mic. 6:6-8. On the style, cp. Begrich, "Das priesterlich Tora," *Werden und Wesen des Alten Testaments*, (Berlin: A. Töpelman, 1936), pp. 79f. We suggest a 'liturgical' setting because the subject matter is non-technical. Cp. Pss. 50:8-11, 51:16f, 15, 24:3-6.

The warnings against apostasy (6:14, 7:4, 16, 8:19f, 11:16f, 28) are paranetic restatements of the first commandment. This type of warning is the only exhortation in Dt. 6-11 to be threatened with divine sanctions.[2]

Chapter seven contains a series of commands and prohibitions which are now employed to implement the first commandment: to put the whole population of Canaan under the ban, not to have friendly relations with the natives, and to destroy their cult places.[3]

The paranesis also has various exhortations not to fear, to remember, not to forget. These have non-legal origins and do not directly admonish obedience to law.

Genesis 17, Exodus 6. These two passages must be taken into consideration because they represent the Priestly author's interpretation of the covenant between Yahweh and Israel.

> As it is preserved to us, P says nothing about a covenant at Sinai; though, in what is perhaps a secondary passage (Ex. 31: 12-17), the observance of the Sabbath is enjoined as a sign of the covenant. We must, therefore, reckon with the possibility that, originally, P too contained a covenant at Sinai, but that

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[1] Unique to the Deuteronomic circle: 'love,' 'cleave to.' Common: 'fear,' 'serve' (see Josh. 24), and 'swear by.' It would serve no purpose here to discuss the origin of the much discussed love commandment. It may have had a psalmnic origin as a praise word (cp. Pss. 31:24, 116:1).

[2] Dt. 6:15, 7:4, 16, 8:19f, 11:16f, cp. 11:28. Aside from 7:16, these are plural address or are associated with it. This leaves some question as to the threat of judgment for apostasy in cc. 6-11.

[3] Dt. 7:2 (radically generalized holy war practice); 7:2c, 3, (4) (originally would have applied to relations with coexisting neighbors); Dt. 7:5 (p. address, cp. 12:3).

this dropped out (because of Ex. 24) when P was conjoined with JE.[1]

If a key passage may be absent, we must search out P's understanding of the covenant between Yahweh and Israel elsewhere and retain a studied reserve about drawing conclusions from silence.

Gen. 17 preserves the Priestly version of God's covenant with Abraham.[2] This covenant was essentially a solemn promise. Abraham was promised a nation of progeny (17:4-6) to whom he will give the land of Canaan (17:8). God promises to be the God of Abraham and his descendants (17:7, 8c). The covenant is unconditional, everlasting in duration (17:7). Likewise, the land will be an everlasting possession of Israel (17:8).

Circumcision is the 'sign' of the covenant (17:9-11). It is by means of circumcision that each male Israelite is incorporated into the covenant community to whom the promises belong. If one is not circumcised, he is excluded from the community and the blessings (17:14). This is the nearest thing to law in the covenant with Abraham.[3]

Ex. 6 is the Priestly version of God's promise of deliverance from

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[1] von Rad, *OTTh I*, p. 135.

[2] *Idem*, *Genesis* (OTLib), *in loc*. On the Priestly theology of covenant, see *idem*, *OTTh I*, p. 134f; Eichrodt, *OTTh I*, pp. 56-58.

[3] If we could generalize on the basis of the sentence, 'be cut off from his people' as one who 'has broken my covenant' (Gen. 17:14), the law contained in Lev. and Num. may have had a similar significance to the command of circumcision. That is, violation of the cultic-legal order of the covenant community excludes a person from the covenant people.

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Egyptian slavery.[1] Thus, it is not a covenant text in the specific sense. The covenant is mentioned (ברית : 6:4, 5) as the covenant made with the fathers. In fact, God promises to deliver Israel from Egyptian bondage because he 'remembers' the covenant with the fathers. The promise looks beyond deliverance from Egypt (6:5, 6) to the gift of the promised land (6:8, cp. v. 4).

In the midst of this material from the sacred history, Ex. 6 inserts a promise of Yahweh 'to take you for my people and I will be your God' (6:7a). In Gen. 17 God had promised only to be 'your God.' Here for the first time in P we encounter both halves of the covenant formula. Prior to the exodus, Israel was not yet a people. It would become so in the exodus. Only after they had experienced this event and come to 'know that I am Yahweh your God who brought you out from under the burdens of the Egyptians' (v. 7b) could they be a people and set up the cultic and legal apparatus for maintaining their existence as a people. The sequence of v. 6, which promises Egyptian deliverance, and v. 7, which promises the covenant relationship, is intended, we believe, to be historical. In other words, v. 7 refers to the event at Sinai and in so doing associates the covenant with the laws revealed at Sinai.

To summarize, for the Priestly Writer the covenant originated as promises to Abraham of progeny and land which would be progressively realized in history. The covenant relationship itself, summarized in the covenant formula, was an everlasting promise to the people as a

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[1] Noth, *Exodus* (OTLib), *in loc*. Cp. von Rad, *OTTh I*, p. 169.

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whole. Circumcision was the fundamental sign of this relationship. But the covenant also involved the cultic and legal apparatus revealed on Sinai for the maintenance of the people. That is, it is our contention that the Priestly view of the covenant also included the law.[1]

Before we conclude, we should state our critical view of the Priestly Source. In a word, we agree with the majority of scholars who consider P to be the latest strand of the Hexateuch.[2] It assumes a situation in which there is no political state and in which the priesthood is the primary locus of communal authority. Such a situation was created by the exile. This is not to say that most of its traditions are of exilic or post-exilic origins. P was in many ways very conservative. But traditions could not have passed through such traumatic events unscathed and they could not be passed on from one institutional setting to another without undergoing modification.

Legal Texts

The other texts relevant to our study are the Biblical collections of law. All of our covenant texts have made reference to law as a part of the covenant relationship. Now we hope to show that all Biblical law is associated with Sinai and/or covenant.[1] Texts: Ex. 20:1-17; Ex. 20:22-23:19; Ex. 34:11-26; Dt. 12-28; Lev. 17-26; Priestly law in Exodus, Leviticus, Numbers and Joshua.

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[1] Eichrodt, OTTh I, pp. 56ff, holds a contrary position. For example, he says (p. 57): "The idea of the covenant as a legal relationship with mutual duties and performances precisely laid down is done away, and the concept of a relationship of grace is put in its place." I agree with Eichrodt that P stresses grace, permanence and universality, but I do not see this to be as radically different from the other covenant traditions as he makes it out to be. On the one hand, P certainly does contain a great quantity of law and this cannot be utterly irrelevant to the covenant. On the other, it is highly doubtful, as I hope to show in subsequent chapters, that any O.T. interpretation of the covenant, with the exception of Dt.-Dtr., can be characterized as "a legal relationship with mutual duties and performances."

[2] Eissfeldt, Introduction, pp. 158ff, 204ff.

Exodus 20:1-17. This text is the most famous and beloved body of law in Hebrew Scripture, the decalog or ten commandments. The same basic collection is to be found in Dt. 5. The source analysis depends heavily upon the narrative sentence (v. 1): 'And אלהים proclaimed all of these words.' On this basis we would conclude that the source is E.[2] The appearance of יהוה(v. 2) is explicable as a self-introduction at a high point in the action.[3]

We are led to the same source-critical conclusions if we ask which collection of law belongs to the Elohist. Ex. 20:22ff and 34:11ff designate Yahweh as the speaker. Ex. 20:1ff is the only candidate for the Elohist source, if we adhere to the rule that the Elohist source consistently employs אלהים as the divine name. The present text of Exodus is out of order, for Ex. 20:1-17 belongs after the selection of Moses as mediator (20:18-21), also from E.[1]

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[1] Noth, "Laws in the Pentateuch," *Essays*, pp. 38f: 'The Old Testament not only includes most of the laws within the limits of the parts narrating the events at Sinai, but beyond that has linked all preserved legal sections to the person of Moses, who takes a central place in the Sinai narrative. The Old Testament has consequently dated practically all laws too early, and compressed into a single act, or at least into a short space of time, what in reality came into being during the course of a long history of successive laws and lawbooks. The tradition has thus quite rightly expressed the actual connection of "covenant" and "law"; it has merely brought together into a single act what took a long time before it developed into this permanent state of affairs as a consequence of that act.'

[2] LXX, Targum and Vulgate translate יהוה.

[3] W. Zimmerli, "Ich bin Jahwe," *Gottes Offenbarung*, *Gesammelte Aufsätze zum Alten Testament* ("Theologische Bücherei: Neudrucke und berichte aus dem 20. jahrhundert" band 19 altes testament; München: Chr. Kaiser Verlag, 1963), pp. 11ff.

The text of the decalog has language in the style of the Deuteronomic school.[2] This occurs in the paranetic material of vv. 5, 6, 10, 12, (17?). V. 11 has a Priestly character.[3] Whether this material was interpolated by a Deuteronomistic editor of the Tetrateuch or was a part of the original Elohist document is uncertain.[4] All that is certain is that the extent text has linguistic signs of a relatively late final composition.

There is internal legal evidence that the decalog arose at a relatively late period in Israelite history. The arrangement of the laws represent a sophisticated level of legal reasoning.[5] An example of 'primitive' legal thinking is found in Ex. 21:15-17, where such similar laws as striking and abusing one's parents are separated by a

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[1] So Newman, *op. cit.*, pp. 40ff, among others. Dt. 5 has the same inverted order, but this may mean nothing more than that Dtr. copied the Exodus order. Noth, *Exodus*, *in loc.*, argues that the decalog does not belong to the original sources, but was inserted later.

[2] S. R. Driver, *LOT*, pp. 33f. Driver mentions 'them that love me' (v. 6), 'within thy gates' (v. 10), 'that thy days may be long in the land which Yahweh your God is giving you' (v. 12) as specified evidence of Dt. language. One might also mention (cp. *ibid*., pp. 99f): 'thou, nor thy son, nor thy daughter,...(v. 10), and 'keep my commandments' (v. 6) and probably 'or any likeness of anything that is in heaven above or that is in the earth beneath, or that is in the water under the earth' (v. 4b).

[3] *Ibid*., p. 35.

[4] *Ibid*., pp. 34f.

[5] K. R. Sauber, *Die Abstraction im Israelitischen Recht*, (Göttingen: Vandenhoeck & Ruprecht, 1953), pp.66f; pp.65f. for Covenant Code.

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law on a completely different subject, stealing a man into slavery. The decalog, on the other hand, begins with prohibitions protecting the fundamental relationship to God, then duties toward parents, and finally protections of relations between neighbors, beginning with the most serious (killing) and working down. The decalog as a whole is intended to be as inclusive as possible of all legal relations within the covenant community.[1] Each individual law is also formulated as inclusively as possible, so much so that the prohibitions against 'using God's name in vain' (v. 7), stealing (v. 15) and coveting (v. 17) cover acts of quite divergent sorts.[2] The command to 'honor thy father and mother' is much broader and more indefinite than Ex. 21:15, 17.

We should also mention some of Gerstenberger's conclusions. He holds that small groups of commandments, two, three or four, on a specific topic are more common and probably earlier than the larger groups, such as the decalog.[3] In fact, he considers our text to be composed of several such smaller groups (e.g., 20:3, 4a; 13-16; 17).[4] It should also be noted that Gerstenberger traces the origin of all but vv. 3-4a to the secular setting of the family, i.e., the clan.[5] This conclusion does not concern us here except in so far as it supports the relative late dating of the decalog.

The decalog was composed as a summary of the proscriptions and prescriptions of the covenant. It was a relatively late, sophisticated reflection on the legal foundation of the covenant relationship. The first and second commandments protect Israel's relationship to the lord of the covenant, while the rest protect the internal life of the community. The speaker is Yahweh, the God of Israel, and the addressee is the people of Yahweh, the community created by the covenant.

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[1] Cp. Alt, "Origins of Israelite Law," Essays, pp. 103-132.

[2] Cp. Gerstenberger, Wesen und Herkunft des "apodiktischen Rechts," pp. 73f.

[3] Ibid., pp. 77-88. [4] Ibid. [5] Ibid., pp. 110ff.

> The Old Testament laws envisage throughout a particular community of people...whose distinguishing feature consisted in the fact that 'Yahweh the God of Israel' was its God, a God whose connection with this community was founded upon definite historical events.[1]

This state-of-affairs is particularly clear in the case of the decalog, where Yahweh introduces himself as the God who has delivered Israel from Egyptian bondage (v. 2).

Exodus 20:22-23:19. This text has received the scholarly name Covenant Code on the basis ~~of~~ the reference to a covenant law collection in Ex. 24:7: ספר הברית. Not only is this a pleasant and appropriate name, it is a source-critically accurate one. Ex. 24:3-8 is the concluding act of the special strand which we identified in our study of covenant texts. Both Ex. 24:3-8 and 19:3-8 employ the divine name יהוה and yet do not belong to the Yahwist. Since the Yahwist source has its own collection of law (34:11-26), the Covenant Code, which is introduced as a word of Yahweh (20:22), lacks a home. The obvious inference to be drawn is that it belongs to the same source as Ex. 24:3-8, 19:3-8. This inference is confirmed by the introductory commission formula and initial address:

כה תאמר אל בני ישראל - אתם ראיתם כי . . . (20:22)

כה תאמר לבית יעקב ותגיד לבני ישראל - (19:3b-4a)

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[1] Noth, "Laws in the Pentateuch," Essays, p. 20.

אתם ראיתם כי...
(19:6) אלה הדברים תדבר אל בני ישראל

The only problem that remains is the absence in Ex. 19:10-25 of a third version of the theophany to the people, referred to in Ex. 20:22. It is possible that parts of 19:21-25, which repeat vv. 11-13, might belong to this source.[1] We lack, nevertheless, any account of Yahweh's 'speaking with you from heaven.'[2]

In the extant text, Yahweh promulgates a massive body of law for Israel: Ex. 20:23-23:19. It will be useful to break it down into units:

(1) Laws of the altar (20:23-26).[3]
Heading to the mishpatim (21:1).
(2) Laws governing slavery (21:2-11).
(3) Laws governing acts with death penalty (21:12-17).
(4) Laws governing liability for injuries to persons (21:18-36).
(5) Laws governing theft and injury to property (22:1-14).
(6) Law of shotgun marriage (22:15f).
(7) Laws governing acts with death penalty (22:17-19).
(8) Laws protecting the weaker members of society (22:20-26).
(9) Laws governing honor (22:27) and duties to God (22:28-30).
(10) Laws protecting judicial process (23:1-3).
(11) Laws governing duties of assistance (23:4f).

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[1] Noth, Exodus, in loc., considers 19:21-25 to be secondary. Our suggestion might resolve the problem of repetition in 'Yahwist' materials. However, v. 24 does seem to anticipate 24:1, at least roughly.

[2] See Noth, ibid., in loc.

[3] Ex. 20:22 functions as the heading of 20:23-26.

(12) Laws protecting judicial process (23:6-9).

(13) Laws governing holy years, days, seasons, etc. (23:10-19).
Many of these groups are themselves made up of even smaller collections.

The small set of laws on the altar (4 prohibitions, 1 commandment and several explanations) must be independent of the corpus which follows in cc. 21-23. It is quite possible that 20:22-26 once formed the law of this strand. It is a small collection in direct address style, on the subject of Yahweh's cultic arrangements.[1] The collection may be very ancient.[2]

The heading or superscription (21:1) must signify an important break in this massive body of law. Ex. 21:1-23:19 is often subdivided at least into two parts, 21:1-22:19 and 22:20-23:19.[3] The first section has a minimum of personally addressed material, while the second is formulated almost entirely as personal address. Moreover, there is a minimum of paranesis in the first section, and a sizable amount in the second. Form-critically, only the first section would, it is believed,

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[1] Cp. Gerstenberger, "*Apodiktischen Rechts*", p. 109. V. 23 has been formulated to agree with v. 22 (pl.), probably indicating that vv. 24-26 are the original core of the unit (sg.) to which the narrative framework and commandment vs. idolatry were added - or perhaps vv. 24-26 were taken up into the narrative. -The word הדברים(24:3) seems to refer to this set of commandments. -Cc. 21:1-23:19 were attached to this set of commandments prior to their incorporation in to the Hexateuch, for we have משפטים in Ex. 24:3.

[2] On the anitquity of the set, cp. J. J. Stamm, "Zum altargesetz im Bundesbuch, (Ex. 20:24)," *Theologische Zeitschrift*, (1945), pp. 304-306, (Henceforth: *ThZ*).

[3] On forms of law and their technical Hebrew nomenclature, see chapter four.

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be called mishpatim.[1] Thus, it is probable that the two sections originated separately. Undoubtedly each of these sections in turn had a long history, growing together slowly, for there are small units quite visible in the larger groups.

The dating of the Covenant Code can only be rough and conjectural.

> As far as the dating of the book is concerned we can only say with certainty - and this is quite apart from the question, which is barely answerable, of the prehistory of the individual elements of which the whole is composed - that it is pre-Deuteronomic, as in several respects the Deuteronomic law shows a more progressive stage in the development of the law. As there is no reference in the Book of the Covenant to institutions of state we may assume that it was compiled before Israel became a state; there is, however, no proof of this.[2]

We adopt the pre-monarchical date, though we recognize that it is impossible to substantiate.[3]

The attempt to depict the historical setting in which the Covenant Code might have arisen goes beyond the evidence which we have. All that we know is that the laws have many close parallels in other A.N.E. codes, especially Codex Hammurabi and the Hittite Law.[4] This by no means implies that Israel borrowed law directly from these codes or indirectly from foreign oral legal traditions. Rather, it means most probably that Israel participated in a common legal culture which transcended national and religio-cultural boundaries. Law cannot exist in the abstract, but only as the rules of judicial systems or other institutions.

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[1] Eissfeldt, Introduction, pp. 214ff. We do not agree with much of the rest of his reasoning.

[2] Noth, Exodus, p. 175.

[3] See below.

[4] Theophile James Meek, Hebrew Origins, (New York: Harper and Row, 1960), pp.49-81.

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The Covenant Code is a completely indigenous Israelite creation: Throughout it assumes a setting within the covenant between Yahweh and Israel. It is connected with a nearly complete Sinaitic narrative strand. Internally it assumes Yahweh to be the speaker and Israel to be the party addressed. I-Yahweh appears in Ex. 20:22, 23, 24, 25, 26, 21:13, 14, 22:22f, 26, 28, 29, 30, 23:7, 13, 14, 15, 18. Only in 23:13, 15 could the speaker be a human, and it need not be. This is not to deny that God is referred to in third person here and there throughout the Code, but that phenomenon has to do with earlier tradition, not with the present formulation. You-Israel occurs very often in Ex. 20:22ff and 22:20ff. It also occurs enough within the impersonal section (viz., 21:1-22:19) to prove that it too assumes the covenant: 21:2, 13, 14, 23, (22:18).[1] Moreover, several paranetic statements depict the Israel addressed as the people of the exodus (22:20, 23:9, 15) who belong to Yahweh (22:30, cp. 20:24b).

If an historical explanation of the Covenant Code is necessary, it must be based upon the above phenomenological explanation. The Covenant Code must have been promulgated by some official who had the authority to speak in the name of Yahweh to the sacral community Israel. In other words, he would have had to have all-Israelite authority, an authority only available through the instrument of the covenant. The law of the Covenant Code must be understood as a sampling of the law valid for the tribal league, Israel (cp. above all 22:19, 22:20ff).

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[1] Ex. 22:18 is definitely formulated in personal address style, but we believe that this is a result of a corruption of an older formulation: see below, chapter four.

Exodus 34:11-26. This collection of laws occurs in the midst of the Yahwistic version of the covenant-making on Sinai, and has consequently received the name Yahwistic Decalog. The idea that ten laws can be found in this collection goes back to an editor who states (34:28): 'And he inscribed upon the tables the words of the covenant, the ten words.'[1] The attempt to discern ten laws has insuperable difficulties and in fact is misguided.

If one begins searching for law in vv. 11ff, he will discover that the section vv. 11-16 is mostly paranesis, and the only commandment is buried as a parenthetical remark, as the R.S.V. translators treat it, in v. 14. Either v. 14 is original to the text, or the paranesis is original, for they do not fit coherently together. M. Noth suggests that vv. 11b-13, 14b-16 be excised from the original text as an editorial addition in the style of Deuteronomy.[2] Aside from v. 14b, which must belong to the commandment, not to the paranetic material, we follow this reasoning. Thereby we arrive at a version of the first commandment in v. 14.[3]

We have a version of the traditional second commandment, i.e., the prohibition of images, in v. 17. If we follow Gerstenberger's evidence and reasoning, these two commandments can stand together as the original law of the Yahwistic covenant.[4] They form a natural pair.

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[1] Noth, *Exodus*, *in loc*.

[2] Noth, *ibid*., *in loc*.

[3] It reads: 'Do not bow down to another God, for Yahweh the Jealous is his name, a jealous God is he.' Both the prohibition and the motive clause are unique and powerful. The motive clause has something of the character of poetry. To the formulation of the commandment proper, cp. Ex. 22:19.

[4] Cp. Gerstenberger, "*Apodiktischen Rechts*," p. 88.

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The following laws (34:18-26) are much different from vv. 14, 17 in style and subject matter. They too are concerned with matters between Yahweh and Israel, but they are specifically cultic, i.e., concerned with the feasts, holy days, and other specific practices of the cultus. They parallel the final section of the Cov. Code, Ex. 23:12-19 (cp. also Ex. 13:1f, 12f).[1] They were probably placed here to fill out the number of commandments.[2] However, it is inexplicable why these were chosen over Ex. 20:7-17 or some like group.

Such issues are not within the concern of this study. It is the discovery that J's law is to be found in v. 14 and v. 17 that is of significance. If one inspects the pair closely, he will discover that Yahweh is not the speaker. He is mentioned in v. 14b in third person, and is otherwise left out of account. This is not as surprising as it might first appear, for the placement of personally addressed law in the mouth of Yahweh is a secondary development.[3] This does not mean, however, that the covenant context is not assumed by the laws. The content of the laws and the description of Yahweh in v. 14b clearly presuppose the covenant between Yahweh and his people, who are specifically bound to him alone.

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[1] See Noth, *Exodus*, *in loc*.

[2] The tendency toward the development of longer series out of shorter ones seems to have been operative not only in Ex. 20:2ff, but also in Lev. 19, Dt. 27:15ff, and elsewhere. The editor, like many modern scholars, may have felt that a pair was not enough.

[3] Gerstenberger, *op*. *cit*., pp. 55ff. Of course, the laws are in Yahweh's mouth from the context (*viz*., 34:10, 11a (?)). The point we are making is that the 1st pers. Yahweh has not penetrated into the law itself. Cp. examples like Ex. 22:27.

Deuteronomy 12-26, *28*. The Deuteronomic collection of laws begins in c. 12 under the superscription, 'These are the *huqqim* and the *mishpatim* which ye must be careful to do in the land...' (12:1a) and concludes with the narrative of the covenant-making act (26:16-19). There follows in c. 28 a table of blessings and curses which conclude the book.

We have stated our major critical presuppositions regarding Deuteronomy as a whole in the discussion of Dt. 6-11. We can concentrate here on situating the law and paranesis in Deuteronomy within the legal tradition. S. R. Driver has compiled an excellent and exhaustive table comparing the laws in Deuteronomy to those in the Covenant Code and Holiness Code and Priestly Law. Let us reproduce the relevant parts:[1]

Topic	Cov. Code, JE	H P
place of sacrifice (12:1-28)	20:24ff	Lev. 17:1-9
Canaanite rites (12:29-31)	(23:24,34:12,15f)	
worship of foreign gods (13)	22:19 (34:14, 20:3)	(cp. Lev. 19:4, 26:1)
disfigurement in mourning (14:1f)		Lev. 19:28
clean & unclean animals(14:3-20)		Lev. 11:2-22, 20:25
food improperly killed (14:21a)	22:30	Lev. 17:15,11:40
kid in mother's milk (14:21b)	23:19b (34:26b)	
tithes (14:22-29)		Lev. 27:30-33, Num. 18:21ff.
year of release (15:1-11)	23:10f	Lev. 25:1-7
Hebrew slaves (15:12-18)	21:2-11	Num. 25:39-46
first born oxen, etc.(15:19-23)	22:30(13:11f,34:19)	Num. 18:17f
3 annual feasts (16:1-17)	23:14-17 (34:18)	Lev. 23, Num. 28f.
just judges (16:18-20)	23:1-3,6-8	Lev. 19:15
Asheroth, pillars (16:21f)		Lev. 26:1a
blemished sacrifice (17:1)		Lev. 22:17-24
worship of foreign gods(17:2-7)	22:19, etc.	(cp. Lev. 19:4, etc.)

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[1] *LOT*, pp. 73-75. We have excluded parallels to materials outside of Dt. 12-26, added parallels to Dt. 13, separated out examples without parallels.

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Topic	Cov. Code, JE	H P
rights of Levites (18:1-8)		Lev. 7:32-34
Molech-worship (18:10a)		Lev. 18:21, 20:2-5
divination (18:10b-11)	22:17	Lev. 19:26, 31, 20:6, 21
killing, asylum (19:1-13)	21:12-14, 20:13	Num. 35, Lev. 24:17, 21
witnesses (19:15-20)	23:1 (20:16)	Lev. 19:16b, Num. 35:30
lex talionis (19:21)	21:23-25	Lev. 24:19f
rebellious son (21:18-21)	21:15, 17	Lev. 20:9
duties of assistance (22:1-4)	23:4f	
mixture of kinds (22:9-11)		Lev. 19:19
tassels (22:12)		Num. 15:37-41
adultery (22:22-27)	(20:14)	Lev. 18:20, 20:10
seduction (22:28f)	22:15f	
incest with step-mother (23:1)		Lev. 18:8, 20:11
usury (23:20)	22:24	Lev. 25:35-37
vows (23:22-24)		Num. 30:2ff
pledges (24:6, 10-13)	22:25f	
man-stealing (24:7)	21:16	
leprosy (24:8f)		Lev. 13f
payment of wages (24:14f)		Lev. 19:13
justice toward weak (24:17f)	22:20-23, 23:9	Lev. 19:33f
gleanings (24:19f)	(cp. 23:11)	Lev. 19:9f, 23:22
just weights, measures (25:13-16)		Lev. 19:35f
offering of 1st fruits (26:1-11)	(cp. 22:29a, 23:19a)	(cp. Num. 18:12f)

This table demonstrates rather conclusively that Deuteronomy's laws belong to the common stock of Israelite law. As to material relationships, S. R. Driver summarizes his conclusions as follows: 'The laws in JE, *viz*., Ex. 20-23 (repeated, partially, in 34:10-26), and the kindred section 13:3-16, *form the foundation of the Deuteronomic legislation*.'[1] No such dependence can be demonstrated for the Holiness Code (Lev. 17-26) or Priestly Law. Rather, it is a matter of parallels which point to parallel legal traditions which shared a stock of legal subjects but diverged in treatment.[2]

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[1] *Ibid*., pp. 75f.

[2] *Ibid*., pp. 76f.

A portion of the laws in Deuteronomy are without parallels in the legal traditions preserved in Scripture. Few of these are Deuteronomic creations. Some have parallels in narratives. Others evidence their origin in their form, topic or addressee.

Topic	Parallels	Probable Origin
appellate jurisdiction (17:8-13)	Ex. 18:13-27	judicial
law of the king (17:14-20)	1 Sam. 8, 12	narrative, court
law of the prophet (18:15ff)	Ex. 20:18ff, Num. 11:24-30	prophetic
moving boundary stone (19:14)	Prov. 23:10, A.N.E.	wisdom
military service (20:1-9)		militia
terms of peace, victory (20:10-18)	war narratives	militia
protection of trees (20:19-20)		wisdom
expiation of murder (21:1-9)	(A.N.E.)	judicial
captive wife (21:10-14)		wisdom
primogeniture (21:15-17)		judicial, wisdom
body of executed man (21:22f)		judicial, wisdom?
interchanging clothes (22:5)		custom
killing mother bird (22:6f)		wisdom
railing around roof (22:8)		wisdom
charge of inchastity (22:13-21)		judicial
admittance to community (23:2-9)		cultic
clean camp (23:10-15)	(cp. Num. 5:1-4)	militia
escaped slave (23:16f)	(cp. Lev. 25:39ff)	wisdom
religious prostitution (23:18f)	Lev. 19:29	
neighbor's crops (23:25f)		wisdom
remarriage (24:1-4)		judicial
limit to retaliation (24:16)		judicial, wisdom?
muzzling ox (25:4)		wisdom
Levirate marriage (25:5-10)	Gen. 38, A.N.E. law	judicial, custom
woman touches man (25:11f)		judicial
triennial tithe (26:12-15)		cultic?

The author has drawn from many sources, the court, cultus, militia, and wisdom humanism. As regards the last of these, M. Weinfeld has shown that the concern for the poor and the general 'humanitarian' attitude of Deuteronomy can be interpreted as the influence of wisdom humanism.[1]

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[1] M. Weinfeld, "The Origin of Humanism in Deuteronomy," The Journal of Biblical Literature, 80/3 (1961), pp. 241ff, (Henceforth: JBL).

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About fifty percent of the legal code of Deuteronomy is paranesis, so it is just as important to show the roots of this tradition as it is the law. Earlier studies of Deuteronomic paranesis tended to set the book apart within its own tradition or at most compare it with the Holiness Code.[1] There are grounds to challenge this assumption that Deuteronomy had a distinct, ancient paranetic tradition. Recently W. Beyerlin has challenged the common assumption that the paranesis in the Covenant Code can be traced to a 'Deuteronomistic editor.'[2] The similarities between motive clauses in the Cov. Code and Dt. 12-26 are due, in his opinion, to a common form and to Deuteronomic dependence. Moreover, the differences are as striking as the similarities.[3] The Covenant Code belongs to the pre-history of Deuteronomic paranesis in the same way that it belongs to the pre-history of Deuteronomic law. The differences in character and quantity are due to the stage of development represented by the respective codes.[4]

The law of Deuteronomy is addressed to the sacral community Israel. To that extent the book conforms to the covenant law elsewhere in the tradition. However, the book deviates from the other legal texts by replacing the divine first person with the human first person of Moses. This fact would seem to undermine any claim that it is a covenant document. The one party to the covenant, Yahweh, has disappeared.

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[1] von Rad, Studies in Deuteronomy, pp. 11-24, 25-36.

[2] Walter Beyerlin, "Die Paränese im Bundesbuch und ihre Herkunft," Gottes Word und Gottes Land, H. Graf Reventlow, Ed. (Göttingen: Vandenhoeck and Ruprecht, 1965), pp. 9-28.

[3] *Ibid.*, pp. 17f.

[4] *Ibid.*, pp. 18, 28.

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Nevertheless, it has never been seriously doubted that the book of Deuteronomy is some sort of covenant document. As M. Noth puts it,

> This law-code is presented as the work and speech of Moses not only in its ancillary sections, but in the very body of its legislation, and so in its very wording claims to belong to the group of laws directly issuing from the Sinai covenant.[1]

Moses, as the one who mediated the covenant at Sinai, now represents that tradition more directly than the original speaker, Yahweh. Otherwise, however, the same parties, Yahweh and Israel, are assumed to be the partners in the covenant throughout. Dt. 17:2 is sufficient to demonstrate this. This verse contains the word ברית to designate the binding relationship between Yahweh and Israel. A person who 'serves other gods' (v. 3) is said to have 'transgressed his covenant.' It is of the essence of covenant thought that Israel is bound to honor only Yahweh.

The fact that the covenant was understood in Deuteronomy to be between Yahweh and Israel does not explain how the Deuteronomic law itself was to be understood. Nowhere is this topic explicitly treated. The laws of the book are understood to be binding upon Israel (12:1, etc.) and it is said that Yahweh commands Israel to obey them (16:16, etc.). It is never said, however, that Yahweh commands them or that he has given Moses authority to do so. The link between Yahweh and the law has become indirect.[2]

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[1] "Laws in the Pentateuch," Essays, p. 45.

[2] G. von Rad, Studies in Deuteronomy, pp. 11ff, treats the question of Mosaic speaker from another standpoint. Our interest is phenomenological so we see no reason to try to account for the shift from Yahweh to Moses.

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In chapter 28 of Deuteronomy we encounter an element, blessings and curses, which we have not found in the strands studied thus far. This does not necessarily mean that we have here a Deuteronomic innovation. Whether it was or not is hard to decide. The question of earlier traditions and the source analysis of c. 28 must be postponed until we examine divine sanctions throughout covenant tradition, for these questions make up a substantial part of our argument in chapter six. We can say that most, perhaps all, of Dt. 28:1-46 can be assigned to the original stock of Deuteronomy.

Leviticus 17-26. These chapters have been distinguished by scholars, beginning with Klostermann (1877), from the rest of Priestly law and given the title Holiness Code on the basis of one of the motive clauses to be found in these chapters.[1] It is not our intention in this dissertation to characterize the understanding of covenant and law in the Holiness Code and Priestly Source. These sources belong to a different stream of tradition from the Covenant Code and Deuteronomy[2] and probably derive, at least in their final writing, from a later period (see above). Our study of HP will be something of a control against false inferences from the limited amount of material in extra-Deuteronomic tradition.

Here we shall simply state our general critical presuppositions regarding the Holiness Code and its traditions. First of all, we should note that the closest parallels to H are to be found in both the original and secondary materials of the book of Ezekiel.[1] One may assume on this basis that the exilic period is the *terminus ad quem* for the composition of the work. The *terminus a quo* is a matter of heated debate.[2] We believe that Lev. 26 and several paranetic sections of the book (to be) presuppose the exile, making the *terminus a quo* of the extant work, minus the Priestly additions, the exile (598/587).[3]

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[1] Driver, LOT, p. 48, Lev. 19:2, 20:7, 8, 26, 21:6-8, 15, 23, 22:9, 16, 32.

[2] Ibid., pp. 73ff.

H is split up into sections of law each beginning with a commission of Moses to speak to either the people (cc. 18, 19, 20, 23, (24), 25) or the priests (cc. 21, 22) or both (c. 17).[4] The laws addressed to the people govern the relations of the laity to the cultus (c. 17, 24:1ff, and elsewhere), to their God (cc. 19:1ff, 24:10ff, and elsewhere), to each other (cc. 19:9ff, 24:10ff, parts of 25, and elsewhere), and to each other sexually (c. 18, 20). C. 23 describes the cultic year and c. 25 the Sabbatical year (every 7th year) and Jubilee year (every 50th year). The laws addressed to the priests prescribe the practices, styles and qualifications of priestly service (cc. 21, 22). Here and there we find sacrificial rubrics (e.g., 22:17ff). In style and content the law addressed to the laity belongs in the mainstream of Israelite legal tradition, though there are some distinctive features which set it apart from the Cov. Code, JE, and Deuteronomy.

Here and there in Lev. 17-26 we encounter paranetic sections: (18:3-5, 24-30, 19:2, 37, 20:7-8, 22-26, 22:31-33, 25:1, 17-23, 24).

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[1] *Ibid*., pp. 49f.

[2] Cp. Eissfeldt, *Introduction*, pp. 237f. [3] Cp. *Ibid*.

[4] Cp. G. von Rad, *Studies in Deuteronomy*, p. 25.

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Their style is reminiscent of Deuteronomic paranesis, but their vocabulary and idioms are distinctive.[1] They are consistently second person plural address, which makes them stand out at times from the law, which tends toward second person singular.[2] This may mean that these sections of paranesis constitute a homogeneous layer of tradition imposed upon the laws.

In Lev. 26 blessings of productivity, peace and victory are promised if Israel will observe the divine law (26:3-13). If it will not obey, disasters will befall it, first to bring it to repentance, then devastation and exile (26:14-33). The land will 'enjoy its Sabbaths' (26:34f) and those on it will suffer greatly (26:36-39). Finally, there is offered the possibility of repentance and new life (26:40-45). C. 26:34-45 are predominately third person plural, perhaps indicating that they are secondary. However, even the earlier section expects exile (v. 33). Unlike the curses in Dt. 28, in Lev. 26 Yahweh speaks in first person and the whole is a unit, an unfolding of the whole of Israel's history. Lev. 26 looks at this process as if it were a fact, suggesting that we have here prediction *ex eventu*.[3] It cannot be ruled out that there are traditional materials in the chapter, but the treatment can be dated with a high degree of probability in the exile.

Nowhere in the Holiness Code, except in Lev. 26:15, is the covenant explicitly mentioned and, outside of the sections of paranesis, there is no reference to Yahweh's deliverances and promises. However, the Code

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[1] See Driver, *LOT*, pp. 49f. [2] See chapter four on types of law.

[3] See Driver, *Deuteronomy* (ICC), p. 303.

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is an address of Yahweh to his people Israel. Its content protects the relationship between them. And its motive clauses argue from the relationship between them. Thus, at a fundamental level, the law of H is covenant law.

Priestly Law. Outside of the Holiness Code the Priestly source has massive amounts of legislation on the arrangement of the sanctuary, priesthood, sacrifice and other rituals, and some legislation on matters covered in the other codes and collections. There are a few examples of 'secular' law, e.g., the law of inheritance (Num. 27:1-11, 36:1ff), the law governing distribution of booty in holy war (Num. 31), the cities of refuge for a man-slayer (Num. 35:9-34). There are descriptions of the structure of the community (Num. 1f, 7, 26) and the allotment of the land to the tribes (Num. 32, Josh. 13ff). A portion of the cultic law is addressed to the laity (e.g., Num. 28-29), but the larger portion is formulated for the benefit of the various classes of clergy (e.g., Lev. 1ff, Num. 3f).[1]

Because of the esoteric priestly tendency of P's law, it is even more marginal to our study than the Holiness Code. The touchpoints between Priestly law and the pre-exilic legal tradition are accidental. P reproduces them in narrative settings oriented toward the arrangement of the community. The author is looking forward to a reconstruction of the community on theocratic lines. That is, the Priestly document has a vision of the future, related in many ways to Ez. 40-48, projected back into the ideal past. The only legislation which it preserves, aside from cultic law, is incidental to the interest in the structure of the community, i.e., its territorial, political and religious institutions and arrangements.[1]

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[1] Cp. Begrich, "Das priesterliche Tora," Werden und Wesen, pp. 63-88; Rolf Rendtorff, Die Gesetze in der Priesterschrift: Eine gattungschichtliche Untersuchung ("Forschung zur Religion und Literatur des Alten und Neuen Testaments" 62; Göttingen: Vandenhoeck und Ruprecht, 1954).

The Priestly legislation presupposes the covenant as the context of legitimacy. The sanctuary and its operations are *revealed to Moses on Sinai* (Ex. 25-31, 35-40). The laws in Lev. 1-16 and Num. 1-10 are depicted as Yahweh's commands to his people and priests, mediated through Moses, during the sojourn at Sinai. The actual covenant-making at Sinai, to be sure, has disappeared, at least from the extant text. There has been a shift toward the patriarchal covenant.[2]

Summary

It was our intention in this chapter to identify the texts relevant to our study of covenant models and to subject these texts to source-critical analysis. One group of texts we called 'covenant texts.' These were identified by their use of ברית to designate the relationship between Yahweh and Israel. Several texts which lacked this term but which corresponded to texts which possessed it were included as well.

We found three older versions (in Ex. 19, 24, 33f) of the sealing of a covenant on Sinai, a narrative framework to the Covenant Code, a Yahwistic version, and an Elohistic version. We found two versions of

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[1] E.g., inheritance of estate by daughters (Num. 27:1-11) and the distribution of the land (Num. 32, 34, Josh. 13ff) and the cities of refuge (Num. 35).

[2] Eichrodt, *OTTh*. I, pp. 56ff.

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a sealing of a covenant at Shechem (Josh. 24), a prophetic version which dominates the present text and remnants of an older account. In the book of Deuteronomy we found a report of a covenant-sealing ceremony which brought both halves of the covenant formula together (Dt. 26:16-19). The introductory paranesis of the book of Deuteronomy was found to contain the substance of the covenant texts in a modified form. Finally we observed that the Priestly view of the covenant between Yahweh and Israel has been preserved in Gen. 17 and Ex. 6.

It was also our intention to show that Biblical legal texts are relevant to our study of covenant models. We sought to substantiate M. Noth's judgment that "according to the Old Testament, the laws apply within the framework of a specified situation established by means of the "covenant."'[1] Within the covenant texts we found that covenant involved law. The connection was somewhat weaker in the Elohist and Priestly versions than it was in the others, but all versions assumed that Israel became a legal order when it entered the covenant with Yahweh.

The legal corpora of the Old Testament for their part assumed the covenant as their context of meaning and legitimacy. The community for which the laws were intended, and indeed to which they were personally addressed, was the sacral league Israel. The speaker of the law was the lord of the covenant, Yahweh, in all cases but Deuteronomy. In Deuteronomy the human speaker Moses has become the symbol of the Sinaitic tradition. In all cases the law was understood to be a part of the

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[1] Noth, "Laws in the Pentateuch," Essays, p. 41.

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covenant relationship between Yahweh and Israel.

Our survey of Biblical law was exhaustive: the Elohist Decalog, the Covenant Code, the Yahwistic Decalog, the Deuteronomic Code, the Holiness Code, and Priestly Law. Each of these, save H, correspond to a covenant text source, although not all covenant texts had a legal corpus attached.

Texts Left out of Account

There are a number of other texts which scholars from time to time have treated as texts representative of the covenant relationship between Yahweh and Israel. It is incumbent on us to specify why we do not consider them relevant to our study. We shall describe why each texts is considered a witness to covenant thought and then say why we have rejected it. Texts: 1 Kg. 18, 1 Sam. 12, Josh. 23, Jer. 7, 12, Ps. 50, Ex. 23:20-33.

1 Kings 18. The contest on Mt. Carmel between Baal and his prophets and Yahweh and Elijah has some features of an act of covenant-making:

> It is probably with definite intention that the tradition in 1 Kg. 18:17-40 depicts the contest between Elijah and the prophets of Baal at Mt. Carmel in terms reminiscent of the covenant assembly at Shechem under Joshua...and...the original covenant at Sinai. ...'All the people of Israel,' i.e., the covenant assembly, are gathered together at Carmel (1 Kg. 18:19, 20)....Elijah calls the covenant people to a decision in behalf of Yahweh, the covenant God who claims the exclusive allegiance of his worshippers (1 Kg. 18:21)...At Carmel the people respond by acclaiming Yahweh as their God (1 Kg. 18:39)....Finally, Elijah takes twelve stones to build the altar upon which the sacrifices are offered (1 Kg. 18:30ff).[1]

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[1] Murray Newman, "The Prophetic Call of Samuel", Israel's Prophetic Heritage: Essays in Honor of James Muilenburg, (New York: Harper & Brothers, 1962), ed. B. W. Anderson and W. Harrelson, pp. 95f.

However much this passage is meant to evoke the covenant tradition, it deviates too greatly from the covenant texts to be a direct witness. Moreover, it would lead us into questions of covenant and prophecy, and typology. The passage is, in its present form, an artistic creation echoing the covenant traditions, not a text out of the latter.[1]

Joshua 23, *1 Samuel 12*, *Jeremiah 7*, *12*. Josh. 23 and 1 Sam. 12 recount the last words of Joshua and Samuel in the language and conceptuality of the covenant.[2] Jer. 7 and 12 portray Jeremiah as acting in the role of a covenant mediator.[3] These passages belong to the Deuteronomistic historian (Josh. 23, 1 Sam. 12)[4] and the Deuteronomistic editor of the book of Jeremiah.[5] Because it is our intention to trace the conception of the covenant from the early traditions to Deuteronomy through original covenant traditions, a study of compositions from the school which emerged in the wake of Deuteronomy would contribute little to our objective.

Psalm 50. This psalm contains the key word ברית (v. 5) and several scholars have suggested that it has to do with an act of

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[1] *Ibid*.

[2] For 1 Sam. 12, see J. Muilenburg, *op*. *cit*., pp. 360ff.

[3] These were the conclusions of the Seminar on Covenant Mediator, under J. Muilenburg (GTU, 1963).

[4] Noth, *Überlieferungsgeschichtliche Studien*, pp. 5, 7ff, 59f.

[5] Jer. 7 and 12 belong to Mowinckel's C-Strata: S. Mowinckel, *zur Komposition des Buches Jeremia*, Kristiani, 1914.

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renewing the covenant.[1] God has called an assembly of those who have made a covenant with him in order to 'judge' them (vv. 4,6). The psalm begins with a description of Yahweh's appearance (vv. 2-3), which some have identified as a cultic theophany.[2] Following the call to assemble, Yahweh addresses the people (vv. 7ff). The address consists of a passage of prophetic torah rejecting their sacrifices (vv. 7-15)[3] and a reproach of evil doers (vv. 16-22).[4]

Ps. 50 very definitely originated out of covenant traditions and witnesses to the structure of the covenant. Inasmuch as the text as it stands has reproaches in place of law, however, the text is best treated as prophecy. We shall take up the hotly debated topic of covenant and prophecy in chapters six and seven.

Exodus 23:20-33. The Covenant Code concludes with this peroration. Occasionally it is suggested as a counterpart to blessing and curse formulae.[5] It does assure blessings (v. 22, cp. vv. 25ff) and warns the disobedience (vv. 20f) and apostasy (v. 33, cp. vv. 24-25a) will bring trouble. The style, on the other hand, is paranetic rather than formal, poetic, and pithy. Its closest textual relatives (Ex. 34:11ff, Dt. 7:1ff, cp. Judg. 2:1ff) are sermonic in character.

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[1] Arthur Weiser, The Psalms, A Commentary, Tr. Herbert Hartwell, (London: SCM Press, 1962), pp. 393ff; Cp. von Rad, "Problems of the Hexateuch," Essays, pp. 22-25.

[2] von Rad, "Problem of the Hexateuch," Essays, pp. 22ff; Westermann, Praise of God, p. 93, identifies it as an epiphany, which he distinguishes sharply from theophany.

[3] On this speech form, see Westermann, Basic Forms of Prophetic Speech, pp. 203f.

[4] V. 23 is a counter to the prophetic torah.

[5] For example, von Rad, "Problem of the Hexateuch," Essays, p. 27.

Obedience to the 'angel of Yahweh' (vv. 20f) refers to his guidance at historical junctures enroute to Canaan (v. 23), not to the laws of the Covenant Code or any other covenantal law. These verses were formulated as a part of the narrative tradition, viz., the wilderness sojourn after departure from Sinai. Source-critically they must stand in some relation to Ex. 33:1ff, although what it is is unclear. Ex. 23:22 is also a part of the 'angel of Yahweh' text.

Vv. 23-33 are drawn from the conquest tradition. Except for v. 25a and vv. 32f, we have promises of conquest and blessings, given on an unconditional basis. Significantly, the survival of the Canaanites (vv. 29f) is explained as a measure to avoid desolation of the land, not as a judgment for Israel's apostasy. Judg. 2:1ff, which has many agreements with our passage, does attribute their survival to disobedience, specifically to the command against friendly relations (Ex. 23:32) and for destroying their sanctuaries.

V. 25a commands Israel to 'serve Yahweh,' not the other gods (v. 24). The following blessing is linked to the command by a simple copulative, indicating that it was not a reward for fulfilment. V. 25a is problematic in its place, for it speaks of Yahweh in 3rd person and employs the plural 2nd person pronoun, unlike the rest of the section.

V. 33 forbids allowing Canaanites to live in Israel because they will lead it into apostasy, which will be a 'snare' (מוקש) to Israel. Even here there is at most only a hint of divine judgment for apostasy.

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'Snare' means elsewhere a temptation which will entrap Israel into doing evil.[1] It does not normally mean punishment, although it could imply it. One can hardly see a 'curse' in v. 33, although one might see a vague warning.[2]

It is doubtful that Ex. 23:20-33 belonged to the Covenant Code.[3] Its position is probably due to an editor of the Sinaitic narrative. Source-critically it is closely related to Josh. 24 and its relatives, in which the serve formula is prominant.[4]

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[1] The word מוקש signifies literally the bait of a bird trap and by extension the trap itself (see B.D.B.). It had two metaphorical usages: the traps the enemies set (In. Lament) and the trap of apostasy. The latter is the usage with which we are concerned. The Canaanites (Ex. 34:12, Josh. 23:13), Gideon's ephod (Judg. 8:27) and apostasy itself (Ex. 23:33, Ps. 106:36, Dt. 7:16) can be called a trap.

[2] Stylistically this is a 'determination' (cp., e.g., Dt. 17:1b), but it is very odd and puzzling.

[3] So Beyerlin, _op_. _cit_., p. 5.

[4] Schmitt, _op_. _cit_., pp. 19f.

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CHAPTER III

THE MODELS OF THE RELATIONSHIP BETWEEN GOD AND ISRAEL OPERATIVE IN THE COVENANT TEXTS

Our task in this chapter is to determine whether the relationship between Yahweh and Israel depicted in the covenant texts was between a sovereign and his subjects or a suzerain and his vassal. In order to elicit the models operative in the covenant texts, we need to formulate questions to ask them. The questions must be 'crucial,' i.e., the answers given should fit one model and not the other. We propose the following questions:[1]

(1) What are the titles given the parties and the images used to describe the relationship?

(2) How is the authority to make demands of Israel established by God?

(3) How is the relationship between the parties validated, i.e., put into force?

(4) Does the relationship have conditions of maintenance and sanctions for non-fulfillment of the conditions?

Each model implies a different and incompatible answer to each of these questions. The sum of the answers should decide which model is operative in a text, and also give a complete picture of the structure of the covenant according to that text. Before we take the questions to the covenant texts, let us outline the answer to each question implied by each model.

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[1] We wish to thank Dr. N. Gottwald for the idea of breaking our exegesis of the covenant texts down in this way. The actual categories are our own. They emerged as the most natural ones out of an attempt to employ others: Who initiated the covenant and how? What were the roles of the partners? What were the responsibilities of the partners? Were there conditions of maintenance and provisions for termination?

Titles and Images. It is normal exegetical procedure to investigate the vocabulary of a text to determine the nature of something like the covenant relationship and the roles of the parties to it. For example, one asks whether Yahweh is called 'king' in the covenant texts if he wishes to determine whether Yahweh is a sovereign in the covenant. One also studies poetic images, parallels in verbal formulae, and other clues to the roles of the parties.

Immediately, however, we encounter a few limitations of this approach. First, ancient Hebrew developed a vocabulary for sovereignty, but not for suzerainty. The sovereign was given titles such as 'king' (מלך), 'ruler' (משל), 'leader' (נגיד) and so forth, and his sphere of sovereignty 'nation' (גוי), 'kingdom' (ממלכת), and so forth. No independent vocabulary developed for suzerainty and vassalhood. Hence, we cannot be certain that when royal language is found in a text that we necessarily have a sovereign-subject model.

Secondly, there are religious titles in the covenant texts which are not analogies to human relations. For example, one of the titles of great importance in our study is 'God of Israel.' We can determine the model to which this title points only by tracing its derivation and function.

Thirdly, there is often a reticence to apply human titles to God. The absence of titles appropriate to a model does not necessarily mean that the model itself is not present.

Finally, the linguistic approach does not lead directly to the structure of the relationship. Most of our examination of the covenant texts will be devoted to the structure. Our other questions are intended to elicit the structure.

Establishment of Authority. This topic arises from the form-critical discussion of the covenant. The Hittite suzerain-vassal treaty has an element known as the 'historical prolog' which aimed at establishing the suzerain's right and power to make claims of the vassal. These prologs tried to demonstrate the suzerain's generosity toward the vassal and his rightful claim to the vassal's loyalty. They also sought to demonstrate Hittite power in order to frighten the vassal from rebelling.[1]

The sovereign also had to establish his authority to make demands of his subjects. He had to convince them that he had the intelligence and power to protect them from their enemies and to establish order and justice in the realm.[2] For example, when the delegation from the northern tribes approach David about assuming kingship, they confess:[3]

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[1] McCarthy, Treaty and Covenant, pp. 99f.

[2] In the Enuma elish, Tablet III, lines 112ff, Marduk establishes his right to reign over the gods by performing magic, a proof of his power.

[3] The elders, rather than David, speak. They refer to the visible evidence that David could make a good king. In the covenant texts, as we shall see, the candidate, Yahweh, is usually the speaker.

> Behold, we are your bone and flesh. In times past, when Saul was king over us, it was you that led out and brought in Israel; and Yahweh said to you, You shall be shepherd of my people Israel, and you shall be leader over Israel. (2 Sam. 5:2)

The elders refer to David's military leadership of Israel in the past as evidence of his capacity to rule. His kinship with them and the divine designation also help to legitimate him in their eyes. The justness of the king's dealings was also an important attribute of royal legitimacy.[1]

Validation of Covenant. This topic, too, arises from the form-critical discussion. The treaty had an oath which bound the vassal to the articles of agreement.[2] The oath put the relationship into effect and made the provisions binding.[3]

A sovereign assumes power at a given time by performing certain acts. In Davidic royal tradition, there was an elaborate ritual for assuming royal power: investiture, anointment, ascension of the throne, and acclamation of the subjects.[4] The northern kingdom evidently made the acclamation of the king by the people the act by which he became king.[5] Hence, monarchy there was reign by consent.

Conditionality and Sanctions. This topic too has been at the center of the form-critical discussion of the covenant. An oath involved divine sanctions. The treaties invariably conclude with blessings for compliance and curses for non-compliance. This means that the relationship was conditional on compliance and enforced by the gods.

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[1] On the royal responsibility to maintain order and justice in his realm, see Pss. 72, 101, 2 Sam. 23:1ff, Jer. 22:15-17.

[2] McCarthy, *op. cit.*, pp. 16, 47, 53, 94.

[3] See Gene Milton Tucker, *Contracts in the Old Testament: A Form-Critical Investigation*, (unpublished Ph.D. dissertation, Yale University 1963), pp. 118-21.

[4] See G. von Rad, "The Royal Ritual in Judah," *Essays*, pp. 222-231.

[5] See chapter one.

The relationship of a sovereign to his subjects is such that the commands and sanctions of the sovereign govern the acts of members of his people in behalf of the whole. The sovereign is the only will that the community has. His commands are in behalf of this community, protecting it from the violations of its members. There is no place for duties with sanctions imposed upon the community itself, for it has no responsible will apart from its sovereign.[1]

There might be conditions made by one or the other side for entering the relationship. The people could make its recognition of a candidate for king conditional upon certain pledges, as the Israelite elders did to Rehoboam (1 Kg. 12). Perhaps a king could exact a pledge of loyalty from his people.[2] If the people broke a pledge of this sort, it would be treated like all rebellion.[3]

Rebellion is the refusal of subjects to recognize their constituted sovereign and the attempt to put another in his place. When rebellion broke out, the Israelite sovereign tried to suppress it and punish the cuplable. He would do this as one who retained sovereignty over the whole people. Rebellion was, from the viewpoint of the constituted

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[1] As we have already stated in chapter one, the Israelite king's sovereignty was qualified by the sovereignty of Yahweh.

[2] So Hertzberg, I and II Samuel (OTLib), on 2 Sam. 5:3.

[3] Perhaps the pledge was under oath, so God as well as the king would be working to put down the rebellion.

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monarch, a particularly flagrant example of violation of the legal order.

The Titles and Images of Covenant Texts

To begin our investigation of the models operative in the covenant texts, we shall review the linguistic evidence. We shall be particularly interested in the titles given each party to the covenant and the images used to describe the roles of each party. We shall also be observant of other features which might point decisively in the direction of one model.

Exodus 19:3-8, 24:3-8. The status offered Israel in its relationship to Yahweh is expressed in two sets of images, one from property relations and the other from political arrangements. Let us examine each of these in turn.

Israel will become Yahweh's סגלה, his 'private accumulation or hoard,'[1] The tradition elsewhere uses equivalences from other types of property relations, חבל, 'share,' from the sphere of tribal land law and נחלה, 'inheritance,' from family land law.[2] In all of these Yahweh is portrayed as an owner of Israel. Israel is his possession. It belongs to him.[3]

Each of the terms not only expresses the idea of ownership, but

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[1] M. Greenberg, "Hebrew segulla: Akkadian sikilta," Journal of the American Oriental Society 71 (1951), pp. 172-174.

[2] Wildberger, Jahwes Eigentumsvolk, pp. 78ff.

[3] On the theological significance of possession, see Dietrich Ritschl, Memory and Hope, (New York: MacMillan, 1967), p. 98, 218, 226.

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also of Yahweh's special relationship to Israel. It is his private possession, set apart from everything else that he owns.[1] Likewise a 'share' or an 'inheritance' is property uniquely associated and bound up with the existence of the owner.[2] The other nations belong to Yahweh too, but Israel is his own special possession, his own personal sphere of authority.[3]

The second set of images belongs to the political sphere, the relation of a sovereign to his subjects. This is enunciated in the pair of parallel expressions, גהי קדוש, 'holy nation,' and ממלכת כהנים, 'kingdom of priests.' These expressions probably form an hendiadys with the meaning: 'a kingdom set apart (to Yahweh) like a priesthood.'[4] Each phrase combines a political with a cultic designation, creating a unique impression. Israel is understood to be a nation, a political entity, with a deity as its king. Every Israelite is a priest because he has a divine sovereign.[5]

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[1] In everyday usage סגלה designated a person's private property, as distinct from his property open to public use (cp. Eccl. 2:8, 1 Chr. 29:3). The distinction between private property set aside for one's own use and property available to public use is relevant to monarchy, in which the monarch is both a private and public person: See Wildberger, op. cit., pp. 75f.

[2] Cp. the myth of Dt. 32:8f, once polytheistic perhaps, but now certainly not.

[3] Wildberger, op. cit., pp. 76ff.

[4] R.B.Y. Scott, "A Kingdom of Priests, Exodus XIX, 6," Oudtestamentische Studien, P.A.H. DeBoer, Editor, (Leiden: E. J. Brill, 1950), pp. 213-219, (Henceforth: Oudt. Stud.), pp. 213-219.

[5] Wildberger, op. cit., pp. 80-97. Ps. 114:2 has a similar combination of cultic ('sanctuary') and political ('dominion') terms. Ex. 15:17 also combines political and cultic designations, though with a more strictly territorial denotation.

One could hardly ask for a stronger confirmation of the sovereign-subject model. The property imagery is quite consonant with it: as Yahweh's possession, it is his special sphere of authority. Although he owns all nations, in Israel alone does he possess the requisites of sovereignty in the strict sense.[1] Here alone are the people literally his subjects.

Israel becomes a 'kingdom of priests,' as we shall see, by submitting itself to Yahweh's sovereignty, by pledging to obey his will (Ex. 19:8). Yahweh is not given the title 'king' in our pericope, but his sovereignty is acknowledged by his subjects. The promulgation of the Covenant Code is an exercise of his sovereignty. Israel re-iterates its pledge to obey in response to the proclamation of this law (Ex. 24:3-8).

The act of sealing the covenant calls forth another set of images. Sacrifical blood is sprinkled on the altar and upon the people.[2] The act appears to symbolize the fact that the parties are 'blood brothers,' that Yahweh and Israel participate in a common life and destiny.[3]

Exodus 33:12-34:28. Many of the same images occur in J's account of covenant-making as we found in Ex. 19:3-8. In 34:9 Moses asks Yahweh to take Israel as his inheritance (ונחלתנו). This image derives from family property relations. Israel is to belong to Yahweh as a piece of property belongs to a family. Theoretically, an inheritance was inalienable and it was by means of the inheritance that the family participated in 'Israel.'[1]

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[1] Wildberger, *ibid*., argues that there were parallel kingship-of-God traditions, one his world-wide kingship and the other his kingship over Israel, and that the election passages belong to the latter.

[2] In Buber's estimation, *Kingship of God*, p. 121, this ceremony is unique both in Scripture and in the Ancient Near East.

[3] So *ibid*., and McCarthy, *op*. *cit*., pp. 162f.

The idea that Israel was a 'holy people' distinct from all other nations recurs several times in the passage, although the actual term 'holy people' does not occur:

> Is it not in your going with us that we...are distinct from all the peoples which are upon the face of the earth?[2]

Yahweh's presence within the people distinguishes it from every other people. This distinctiveness will be made manifest in Yahweh's marvels, events which are absolutely unique among the occurrences of nature and history (Ex. 34:10). The idea of accompanying presence may derive from cultic concepts of divine presence.[3] For example, we learn from 2 Sam. 7:6f that Yahweh's presence was not attached to a place, but could move about with his people.

Finally, the Yahwist's account comes very close to describing Israel as Yahweh's subjects:

> This nation is your people (עמך הגוי הזה).

The political term גוי, is connected to the ethnic designation עם.

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[1] On O. T. inheritance terminology, cp. von Rad, "The Promised Land and Yahweh's Land," *Essays*, pp. 79ff; Wildberger, "Israel und sein Land," *Evangelische Theologie* (Henceforth *EvTh*) 16 (1956), pp. 404-422.

[2] 'I and thy people' is clumsy and out of place, but probably original to J, who has, we believe, combined special Moses and all-Israelite material. This statement can only apply to Israel.

[3] That is, something like the 'dwelling theology' described by von Rad, *Studies in Deuteronomy*, pp. 37ff; cp. *idem*, *OTTh I*, p. 285.

Admittedly, the statement does not give Yahweh an actual political role of sovereignty within Israel. It is, on the other hand, suggestive of such an interpretation if other evidence supports it.

The portrait of Yahweh resembles an absolute sovereign. He possesses arbitrary power and unconditioned freedom (33:19, 34:6f). He seals the covenant unilaterally (34:10, 27).[1] No matter how superior a suzerain might be to his vassal, or how much a treaty might be forced on a vassal, some sign of the vassal's acceptance, *viz*., an oath before the gods, was exacted.[2] Sovereigns, on the other hand, often established themselves without assent or oath of their subjects.

Exodus 24:1f, 9-11; 20:1-17, 18-21. The Elohist's narrative of covenant-making has a paucity of titles. This makes our task difficult. Ex. 24:10 uses the title אלהי ישראל to designate the lord of the covenant. This title normally stands in apposition to יהוה. Only rarely does it stand alone, as we find it here.[3] However, it appears to have had an origin and history of its own before it was combined with יהוה. It seems to go back to the title אל אלהי ישראל preserved as the name of an altar at Shechem (Gen. 33:20).[4] This would have been the name and title of the God of a very early stage of the covenant and tribal league.[5]

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[1] Cp. McCarthy, *op. cit*., p. 166. [2] *Ibid*., p. 95.

[3] But it does occur alone a few times: Num. 16:9 (P), 1 Sam. 1:17, etc.

[4] Smend, Jr., *Die Bundesformel*, pp. 14f.

[5] Cp. *idem*, *Yahweh War and Tribal Confederation*, pp. 107f. Yahweh would have supplanted El as lord of the tribal league when the league was expanded to twelve tribes.

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The title and the covenant-making account to which it belongs (i.e. Ex. 24:9-11) represent a very early understanding of the covenant. The sacral act lacks any reference to law. The delegation of elders simply shares a meal in the divine presence. It is probable that periodic celebrations of this type constituted the primary visible expression of community at the earliest stages of the tribal league's history.[1] It would have been a group of tribes which came together to worship its deity (אל אלהי ישראל). The title of this deity binds him to this confederation (ישראל).

This earliest picture of the covenant does not correspond to either of our models. Above all, it lacks law and both of our models require~~s~~ demands imposed upon Israel by its God. However, the Elohist does portray God as law-giver elsewhere (Ex. 20:1-17, 18-21). When these two roles are combined, the God of the covenant, in our estimation, takes on the power of sovereign in Israel: It is by means of a common recognition of a locus of sovereignty that the community comes into being as a legal community.[2] A suzerain does not play such a central and unifying function in the life of vassal societies.

Joshua 24. In our literary-critical analysis of this chapter we argued for the existence of two layers in the text. We contended that the extant text is relatively late and that there are indications of an earlier account which is preserved at most only fragmentarily. Here and in the subsequent sections of this chapter we shall (a) present the answers of the extant text and then (b) attempt to infer the answers of the older version to our questions. The reconstructions of (b) will naturally be speculative and quite tentative.

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[1] Without law and evidently no military functions, it is hard to see the association of tribes having any other visible expression than worship.

[2] That is, when the God of Israel becomes a law-giver, the community which comes into being in his presence is a legal as well as cultic community.

(a) The extant version of the covenant-making at Shechem has at its center a decision between 'serving Yahweh' and 'serving other gods.'[1] The serve formula was used in the ancient Near East to describe the relationship of subjects to their sovereign, vassals to their suzerain, and worshippers to their deity.[2] Since Joshua 24 is pre-occupied with the question of which God Israel will serve, the author must have the relationship of worshippers to their deity in his mind.[3]

The question is: Is the relationship of Israel to Yahweh analogous to that of subjects to their sovereign or of a vassal to its suzerain? Yahweh's claim to exclusive loyalty, treated in vv. 14-24, could be made by a sovereign or a suzerain. It must be admitted that the titles and images do not favor one model or the other decisively. We must decide between them on other grounds.

The feature which stands out in this account of covenant-making is the obligation which all Israel assumes to remain loyal to Yahweh. This collective obligation is sanctioned (vv. 19f) and witnessed (vv. 22, 27b). These characteristics point toward the suzerain-vassal model.

(b) The earlier version is probably preserved in the acclamations

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[1] See chapter two.

[2] Lofink, Hauptgebot, pp. 74f.

[3] Schmitt, Landtag von Sichem, pp. 45f.

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of Yahweh as Israel's God (vv. 17a, 18b), both now subordinated to the serve formula, and the appellative אלהי ישראל with יהוה (vv. 2,23). We have discussed this language in our exegesis of Ex. 24:9-11. In Josh. 24, Israel is given the opportunity to acclaim Yahweh as its God. The acclamation itself resembles an acclamation of a king.[1] To the older version also may be ascribed the pledge to obey Yahweh (v. 24b), a recognition of the power of the God of Israel to command. The power to command is the essential requisite of sovereignty. Admittedly, the suzerain has a similar power over his vassals. Thus, though the titles and functions of Yahweh and Israel in this account seem to point in the direction of the sovereign-subject model, the evidence is not decisive.

Deuteronomy 26:16-19. This text draws together the titles and images of Ex. 19:3-8, and Ex. 24:9-11 and the older version of Josh. 24. The election terminology of Dt. 26:18f has been derived fairly directly from Ex. 19:5f. Israel is Yahweh's עם סגלה and עם קדוש. The political term גוי, used with קדוש in Ex. 19:6, has been replaced by the ethnic term עם. In Deuteronomic literature גוי is reserved for foreign countries.[2] עם has also been added to סגלה. The other political phrase of Ex. 19:6, ממלכת כהנים, has disappeared.[3]

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[1] The acclamation to kingship, or rather acquiescence, חי המלך (2 Kg. 11:12, etc.) does not constitute a linguistic proto-type of this acclamation. However, the acclamation, 'Jehu is king' (2 Kg. 9:13), does. All of these acclamations have the force of recognition and submission: cp. R. deVaux, op. cit., p. 106.

[2] G. von Rad, Gottesvolk, p. 10.

[3] Wildberger, Eigentumsvolk, pp. 20ff.

Like the older version of Josh. 24, Dt. 26:17 connects the acclamation of Yahweh as God of Israel with the pledge to obey his will. Being deity in Israel is thus bound together with the power to command. The pledge has been formulated more loosely than our other texts.[1]

While the language still points in the direction of the sovereign-subject model, it has been 'depoliticized' to such an extent that we can no longer say that this model was conscious to the author. We have the language of a sovereign-subject model uprooted partly from the concrete political reality which it once described.

Deuteronomy *6-11*. The Deuteronomic paranesis employs the election language of Ex. 19:5f and Dt. 26:18f and coins some terms of its own. In Dt. 7:6-8*, the terms עם סגלה and עם קדוש are used along with the finite verb בחר, 'choose.' In 10:14f, the author uses only בחר and another coinage, חשק אהב, 'fell in love,' to describe the election. Echoes of election language can also be heard in the simile of a father teaching his child discipline (8:5), in Yahweh's choice of Israel over the Canaanites in the conquest (9:4f), and in his promise of a special blessing of Israel (7:14a).

The phrase 'Yahweh is our God' is echoed throughout the paranesis in the title 'Yahweh your God.' When Israel confesses him to be their God, it confesses him to be the universal God (6:4, 7:9, cp. 10:14). Israel's obligation to obey his will is a matter of continual exhortation. It is connected directly with his status as God (6:4/5ff, etc).

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[1] We have a series resembling a Deuteronomic summary of the divine will.

Like Dt. 26:18f, the author has depoliticized the election terminology. He has also stressed the universal lordship of Israel's God. Otherwise, it would seem, he has not significantly altered the titles and images of the covenant relationship. On the basis of it alone we cannot decide which model is being employed in the book of Deuteronomy.

However, the use of finite verbs to depict the election and the connection of election to the events of the sacred history indicate a sh shift of covenantal models. Election has become an event in the past accomplished by Yahweh alone. Yahweh has adopted Israel as his people and promised to remain faithful as long as Israel is loyal and obedient.[1] This adoption was an act of condescension of the universal God (10:14f). By using the words חשק אהב, 'fell in love,' the author stresses the spontaneous, irrational and unmerited character of his act.

These features portray Yahweh as Israel's great benefactor. He had condescended to take this small, helpless people under his protection.[2] Yahweh's relationship to Israel is essentially a paternalistic one. In return he expects Israel to respond gratefully to him and to follow the rules which he has given it for its own good (10:12f). If one overlooks the military coercion behind the relationship of a suzerain to his vassal, he can discern the same paternalism in the attitude of the suzerain to his vassal.[1] As we shall see, other features of the Deuteronomic interpretation of the covenant point toward the suzerain-vassal model. The decisive features which point in this direction are the collective obligations Israel owes Yahweh and the blessing and cursing formulae of Dt. 28.

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[1] G. von Rad, OTTh I, pp. 194, 196n, 223ff.

[2] Dtr. goes even further in the direction of the 'paternalistic benefactor' image: cp. Dt. 7:7-8a, 10:17-19 (both plural). Note also that throughout D's law there are the 'humanitarian laws' calling for the care of the poor, widow, fatherless, sojourner, etc. This is certainly a paternalistic motif.

Genesis 17:1-17, *Exodus 6:2-8.* The Priestly Source has Yahweh promise one half of the covenant formula, 'I will be your God,' to Abraham (Gen. 17:7) and both halves, 'I will take you as my people, and I will be your God,' to Israel through Moses (Ex. 6:7a). The relationship between Yahweh and Israel has been created solely at the divine initiative in the past. Likewise, God has 'established' (הקום) the covenantal order (Gen. 17:7, cp. Ex. 6:4). These features agree strikingly with the view of Deuteronomy. Both trace the origin of the relationship of Yahweh to Israel to Yahweh's bestowal of favor on the patriarchs. Both see the relationship actualized in the events of sacred history.[2]

However, P specifically rejects several features of the suzerain-vassal treaty: The law is not imposed upon the people as a collective obligation (e.g., Gen. 17:9ff) and the covenant is unconditional, everlasting (Gen. 17:7f). God is the founder of the people and its sovereign. His sovereignty is not made explicit in these two covenant

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[1] This is especially true of the Hittite treaties, with their employment of the historical prolog and their de-emphasis on blessings and curses.

[2] Eichrodt, *op. cit.*, pp. 53f, 58, notices that both D and P have shifted toward a "timeless" view of covenant. This "timelessness" is achieved by anchoring its beginning in past events.

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texts, but it is brought to expression in the content of the Sinaitic revelation, the bulk of its law, the layout of the camp, and the picture of settlement.[1] The cultus is the primary agency of his rule and the priesthood its instrument.[2] The people of Israel has been transformed from a political community with a cultus into a cultic community with certain legal and political powers.[3]

Conclusions. In this section we have examined the titles and images of the covenant texts to determine the models of the covenant consciously or unconsciously employed by the authors of the texts. We found that the election terminology of Ex. 19:3-8 characterized the relationship as that of a sovereign to his subjects and an owner to his property. The other texts which employed similar language did not bring the sovereign-subject model as clearly to the fore. The Yahwist (Ex. 33:12-34:28) did not employ political titles for Israel. The arbitrary power of Yahweh did, however, point toward the sovereign-subject model. Dt. 26:16-19 and Dt. 6-11 depoliticized the terminology. Dt. 6-11 also modified the conceptuality of election to make it a condescension of a benefactor in the past. This picture points in the direction of the suzerain-vassal model of the covenant. P too traced election to the divine initiative in the past, but he specifically counters characteristic features of the suzerain-vassal treaty.

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[1] Ex. 25-31, 35-40, Lev. 1-16 (17-27), Num. 1-10; law is also given on the way.

[2] Cp. Buber, op. cit., p. 22; cp. vonRad, OTTh I, pp. 248-250. The vast preponderance of the instructions and law of P (excluding H) have to do with the sanctuary, priesthood, and ritual.

[3] Cp. M. Noth, The History of Israel, (London: A & C Black, 1958), pp. 314-316, 322f.

Ex. 24:9-11 employed the title 'God of Israel' to designate the lord of the covenant. This title and the unit to which it belongs do not correspond to either of our models. Once the relationship between God and Israel takes up law, the role God plays as the unifying center of the community corresponds to a sovereign's role in a legal community. The older fragments of Josh. 24 use the same title for Yahweh. He is acclaimed as God of Israel and his will is made binding. The extant text of Josh. 24 makes 'service of Yahweh' the primary description of the relationship. We cannot decide between models on the basis of this formula alone, but several features of the event, viz., assuming of collective obligation of loyalty by Israel, sanctioning of this obligation and witnessing to it, suggest the suzerain-vassal model.

Establishment of Divine Authority

In this section we shall investigate the covenant texts to determine how God established his authority. To lay claims on someone's loyalty and destiny and to demand a certain behavior of them, one must establish one's right to do so or at least one's capacity to do so. Our interest is in what God says and does to make Israel feel obligated to obey him. The way he makes his claim will determine the model functioning in the covenant. If he attempts to establish his capacity to save his people and to maintain order and justice, the sovereign-subject model is operative. If he attempts to produce a feeling of gratitude and fear, the closest analogy is the suzerain-vassal treaty.

Exodus *19:3-8*, *24:3-8*. We have found that the titles bestowed upon Israel in Ex. 19:5f characterize it as Yahweh's subjects and possession. To accept the relationship, Israel must recognize Yahweh's power to command (v. 8, cp. v. 5a). Now let us determine how Yahweh supports his claim to sovereignty in Israel.

In Ex. 19:4, Yahweh recounts what he has done amidst the people to whom he is making the covenant proposal. Vv. 5f are set off from v. 4 by 'and now' (ועתה). What precedes the proposal lays the basis for it. The key word for interpreting v. 4 is ראיתם, 'you have seen.' In his deeds Yahweh has *demonstrated* his power ('What I did to the Egyptians'),[1] concern ('How I bore you on eagles' wings')[2] and purpose for this people ('And brought you to me'). Yahweh has proven his capacity to be Israel's lord. He has shown a concern for its welfare that should persuade the people of his beneficence. The goal of his action was to bring the people to himself. Their encounter should issue in a relationship continuing into the future.

The rehearsal of these acts is *theophanic*. The events were a visual experience of God's power and purpose. They demonstrate to Israel what an advantage it would be to have this God as its lord. This use of history corresponds to McCarthy's observation: 'The manifest power and glory of Yahwe, ceremonies effecting a union, these are the things which ground and confirm alliance more than history, oath, threat and promise.'[1]

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[1] Not: 'How I delivered Israel.' The same visual, i.e., demonstrative, emphasis is found in Ex. 14:10-14; also cp. Ex. 18:11.

[2] An image of speed and tender care: The image is used again in Dt. 32:11 for leading through the wilderness.

The use of history in Ex. 19:4 is significantly different from the use of history in the historical prologs of the Hittite suzerain-vassal treaty. McCarthy describes the aims of these as:

> They...emphasize the bounty of the Hittite king, his generosity and his readiness to forgive. Often enough they bring out that the vassal owes his very place to the king. All this is doubtless aimed at producing gratitude as a motive for fidelity.[2]

The treaties also recounted historical events to impress the vassal with Hittite power of arms and to establish their just claims over the vassal state.[3] The attempt to inspire fear in the vassal so that he will not rebel does not correspond to anything in our text, for Yahweh has demonstrated his power in Israel's behalf. Yahweh does not try to justify a claim on Israel, but offers evidence of his concern and purpose for it. Israel remains free to decide to accept or reject the relationship after the recitation.

The Sinaitic theophany itself plays a significant role in establishing Yahweh's authority. This account of the theophany had Yahweh 'talk with you from heaven' (20:22). This too served the purpose of demonstration (ראיתם). It probably demonstrated Yahweh's awe-inspiring power. The theophany is referred to at the beginning of the promulgation of law, suggesting that it strengthened his authority to

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[1] *Treaty and Covenant*, p. 163.

[2] *Ibid*., pp. 99f. The other motive listed by McCarthy, *viz*., to learn the lessons of history, is not relevant to our discussion here.

[3] *Ibid*., p. 100.

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make demands of this people.[1]

To conclude, while the recitation of history has been thought by proponents of the suzerain-vassal model of the covenant to be a decisive confirmation of their thesis, it is not. Theophany is the way Yahweh establishes his authority in the Sinaitic covenant and historical recitation is made to serve a theophanic function. This corresponds to the sovereign-subject model of the covenant: It is a sovereign's power and intent to save and to maintain order and justice which encourages persons to subordinate themselves to him.

Before we leave this passage, there is one other statement which draws our attention:

> You shall be my own possession among all peoples,
> for all the earth is mine (19:5b).

Yahweh claims the right and freedom to make Israel his special possession on the basis of his ownership of all nations. Like a suzerain, Yahweh had as it were a 'power base' apart from his relationship with Israel. He owned all nations. Hence, he had a right to claim any one of them, somewhat analogous to a suzerain's claims over his vassals.[2] However, the thrust of this statement is not his right to control Israel addressed to Israel, but his freedom to enter into this relationship. As owner of all nations, he is free to dispose of his property as he will. If he decides to set one aside as his special possession, no

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[1] Cp. McCarthy's statement re J: "The will of Yahwe, whose terrifying power and majesty have been manifested. . ., is enough to ground the covenant." Ibid., p. 166

[2] Cp. the claims made by the suzerain: ibid., p. 100.

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one can charge him with partiality. Rather than claiming a suzerain's rights over Israel, Yahweh is claiming as suzerain of all nations the right to be sovereign over one. As to his right to be sovereign in Israel, he allows Israel to decide (vv. 5a, 8).

Exodus 33:12-34:28. The Yahwist's account of the covenant employs some of the same type of language and concepts as Ex. 19:3-8, but the sovereign-subject model can not be demonstrated from it. We saw Yahweh's arbitrary power as analogous to an absolute sovereign.

In place of the reference to Yahweh's deeds in the past the Yahwist's account has promises for the future:

> Before all your people I will do marvels, such as have not been created in all the earth or in any nation. And all the people among whom you are shall see the work of Yahweh, for it is a terrible thing that I will do with you (34:10).

It is unclear whether 'you' refers consistently to Moses.[1] But it is clear that the marvels/terrible things are for Israel's benefit. They have the purpose of demonstration (ראה). Semi-technical terms for Yahweh's acts have been piled one on another: נפלאת, 'marvels,' מעשה יהוה, 'work of Yahweh,' and נורא, 'terrible thing.'[2] We also find the very striking verb ברא, 'to create,' describing the singularity of these events within all nature and history.

These demonstrative acts which Yahweh promises Israel as a part of the covenant will confirm and actualize it. In the rather subtle exchange between Moses and Yahweh in 33:12-15, Moses requests signs that Yahweh will accompany his people, for

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[1] The final 'you' - 'it is a terrible thing that I will do with you' - could refer to Moses or the people. It should refer to the people. See chapter two on our explanation of the complex addressee in J.

[2] Cp. C. Westermann, der Aufbau des Buches Hiob (Tübingen: J.C.B. Mohr (Paul Siebeck), 1956), pp. 98ff.

> Is it not in your going with us, that we are distinct...from all other people that are on the face of the earth? (33:16)

Israel's uniqueness consists of Yahweh's presence in its midst, and this favor must be confirmed or made known in extra-ordinary events.[1]

The stress on theophanic demonstration of Yahweh's power and presence suggests the sovereign-subject model of covenant. It is on this basis that he lays claim to the people's loyalty (34:14, 17). His authority is self-evident in view of his demonstration of power and favor.

Exodus 24:1f, 9-11; 20:1-17, 18-21. The Elohist account of the covenant-making contains traditions from various eras. Ex. 24:9-11 is a very ancient tradition which represents a view of the relationship between God and Israel which lacked law. The association between Yahweh and Israel was actualized in a meal of the elders in the visual presence of the 'God of Israel.' Neither model is applicable to this stage of the tradition. However, the Elohist also has the promulgation of law (20:1-21). The source as a whole bestows upon God a role more comparable to that of a sovereign than that of a suzerain.

The theophanic presence of the God of Israel is the center of the covenant-making act (Ex. 24:9-11). Theophany does not so much establish his power as effect a sacred association. The representatives of the people participate in the meal in the presence of God and thereby

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[1] J does not, as does Ex. 19:5b, try to justify Yahweh's right to identify with Israel.

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become a community. The opportunity to see God is special favor to this people, for normally no one sees God and lives (24:10f). A very intimate bond is forged between him and this people. Early in Israel's history, the bond would have had to be revived periodically, for no institutional structure seems to have issued from the sacred act.

In the earlier parts of the Elohist narrative theophany also plays a decisive role. The event begins, as it does in J, with preparation for a public theophany (Ex. 19:3a, 10?, 14). God appears in thunder, lightening and thick clouds (Ex. 19:14ff). The people are frightened and choose Moses to go up to him to get his word (20:18-20). Moses does so (20:21) and receives the decalog (20:1-17).[1] The theophany itself has been sufficient to initiate the covenant-making process.

The decalog begins with a theophanic self-asseveration ('I am Yahweh your God') followed by a self-predication ('Who brought you out of the land of Egypt, out of the house of slavery').[2] The exact import of these statements has been hotly debated.[3] One major issue is: Does the historical self-predication function as an 'historical prolog' of a treaty or as a further identification of the theophanic God?[1] There appears to be no way to resolve the debate decisively in favor of one or the other position. Its specific connection with a theophanic self-asseveration suggest an identification of the theophanic God, but does not prove it conclusively.[2] We can at least say this: The self-predication proclaims an historical event. It identifies the God who addresses Israel in the law with the God who acted decisively in Israel's behalf in the past. Both theophany and history establish Yahweh's authority and Israel's obligation. That theophany establishes his legal authority is stated in almost as many words by Moses:

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[1] Moses receives the tablets written by the 'finger of God' and returns to the people: Ex. 31:18, 32:15f. The report of reading the law to the people has been lost.

[2] On the 'self-predication,' cp. W. Zimmerli, "Das Wort des göttlichen Selbsterweises (Erweiswort), eine prophetische Gattung," Gottes Offenbarung, pp. 120ff; also Claus Westermann, *Basic Forms*, pp. 125f.

[3] Cp. the debate between W. Zimmerli, "Ich bin Jahwe," *ibid.*, pp. 11-40; W. Zimmerli, "'Offenbarung' im Alten Testament," *EvTh* 22 (1962), pp. 15-31, and R. Rendtorff, "Die Offenbarungvorstellungen im Alten Testament" *Offenbarung als Geschichte* ("Kerygma und Dogma," Beiheft 1; Göttingen: Vandenhoeck und Ruprecht, 1963), pp. 21-41.

> Do not fear, for in order to test you God comes, and in order that the fear of him will be upon your faces, so that you will not sin. (20:20)

The theophany demonstrates the enforcement power behind the commandments.

The centrality of theophany in the formalizing of the relationship and the establishment of legal authority points in the direction of the sovereign-subject model of the covenant. God favors the representatives of the people with a theophany and thereby binds it together around him. His theophanic presence to the entire people establishes the authority of his will. The historical self-predication, which can be interpreted according to a theophanic or a treaty analogy, also supports God's authority to make demands of this people. It is entirely possible that this one feature signifies something of a tendency toward the suzerain-vassal model of the covenant.

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[1] Mendenhall, Law and Covenant, pp. 32f, versus McCarthy, Treaty and Covenant, p. 161; "The opening lines of the Decalogue . . . are not so much an historical prologue as a part of a theophany with a form of identification of the God who appears which is rooted in the oldest traditions."

[2] The 'preamble' of a treaty resembles a messenger formula or proclamation formula (see Westermann, Basic Forms, pp. 100-115) more closely than it does a theophanic self-asseveration. The treaty is formulated as a suzerain's decree.

Joshua 24. The extant account of the covenant-making at Shechem under Joshua stresses the either/or decision of serving Yahweh or serving other gods. The language of this choice does not point decisively toward either model. However, the collective obligation assumed by the people, the threat of sanctions for non-fulfillment of this obligation and the act of witnessing are clear indications that the suzerain-vassal model is operative. Fragments of an older account gave Yahweh the title 'God of Israel.' The people acclaim him as their God and pledge to obey him. The sovereign-subject model of the covenant may have been operative in this layer of the tradition, but this has not been demonstrated with any certainty.

(a) The extant account of Josh. 24 does not recount a theophanic appearance of Yahweh. His authority is established by a recitation of history (vv. 2-13). The speaker in this section is Yahweh. The speaker changes from Yahweh to Joshua in v. 14, when the event moves from a review of the past to a decision about the present and future (signalled by ועתה, cp. Ex. 19:5). Joshua calls for a decision between Yahweh and the gods of the fathers and of the native Amorites (vv. 14f). The people respond:

> Far be it from us to forsake Yahweh to serve other gods (v. 16).

This answer is followed by a recital of his deeds in its behalf and a positive affirmation of its loyalty to him (vv. 17f).

The striking feature of this account is that while Joshua offers Israel a choice, it foreswears making a choice. To choose against Yahweh would be to forsake him. He has established himself as its God by what he has done. His acts have obligated it to him. The relationship between them has in actuality been initiated by Yahweh in his past deliverances. The opportunity to decide for or against him today is nothing more than a chance to affirm what Yahweh has been all along. No new beginning is made here.[1]

The understanding of history in this account of covenant-making, specifically in vv. 16-18, corresponds to a dominant motif of the historical prolog of the Hittite suzerain-vassal treaty. To cite McCarthy again: The historical prologs of these treaties

> emphasize the bounty of the Hittite king, his generosity and his readiness to forgive. Often enough they bring out that the vassal owes his very place to the king. All this is doubtless aimed at producing gratitude as a motive of fidelity.[2]

What Yahweh has done for Israel establishes a moral claim to Israel's loyalty. Divine generosity and human gratitude bind them together. This is the way suzerainty is established or justified.

(b) The key to the older account of this event is v. 27a, which refers to 'words of Yahweh' witnessed to by the 'stone.' The allusion here must be to commands, for only commands would require a witness. The text does not refer to Israel's commitment, but to Yahweh's demands.

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[1] G. Schmitt, op. cit., pp. 33ff, 42ff, makes a similar point, although his view of the chapter as a whole is much different one from ours.

[2] Op. cit., pp. 99f.

The extant version does have a witness to Israel's commitment (v. 22, cp. v. 27b), but v. 27a is oblivious of it.

Although the center of the older account must have been Yahweh's commands, it would not be unreasonable to attribute much of vv. 2-13 to it as well. It is the only section of the extant chapter to be 'words of Yahweh.' To be sure, the author of the extant account may have expanded this rather baroque text, but he has not modified its form as address of Yahweh.

What was the significance of the recitation of history for the older account of the covenant-making at Shechem? No real certainty can be attained on this question. However, at least one statement suggests that it was theophanic:

> And your eyes saw what I did to Egypt (v. 7bα).

This segment of the verse is clearly original, while v. 7a, which mentions Yahweh entirely in 3rd person, is probably secondary. It is quite similar to the statement in Ex. 19:4. If this verse is a key to the understanding of history in the older account, we have a demonstrative use of history characteristic of Ex. 19:4, cp. 34:10. However, we cannot be sure, for this is only one part verse in a rather massive review of history.

Deuteronomy 26:16-19. We have found that most of the titles of Yahweh and Israel present in the tradition have been combined in this small pericope. However, neither its election titles for Israel nor the title of Yahweh point decisively toward the sovereign-subject model.

There is no direct reference to past history in this unit.[1] We do find a promise:

> To set you high above all nations that he has made,
> for a praise, a name and an ornament (Dt. 26:19a).

It is possible that this promise functions as the promise in Ex. 34:10 to establish Yahweh's claim on Israel. Israel is promised Yahweh's special favor on the plain of history. His purpose is to provide a 'praise, name and ornament' for himself. Israel will be a visible symbol of the unseen God of the entire world.[2]

While the use of promise to establish divine authority suits the sovereign-subject model best, our evidence does not point to either decisively.

Deuteronomy 6-11. We found in the previous section that the Deuteronomic preaching employed most of the traditional terminology. By a slight change in usage, however, the author modified the conceptual framework of the covenant: Yahweh alone initiated his relationship with Israel. His election of Israel was a condescension of an all-powerful benefactor. This as well as other features, we suggested, point toward a suzerain-vassal model operative in the Deuteronomic interpretation of the covenant.

A large share of Dt. 6-11 is devoted to the review of history,

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[1] As he promised' does occur several times; these sound Deuteronomic.

[2] Since this promise stands awkwardly between the two halves of the election declaration, it looks like a secondary development, in fact an expansion of '...among all people, for all the earth is mine' (Ex. 19:5b). It is much weaker than the 'credentials' in our other passages and may be a substitute for something which has dropped out or was taken totally into paranesis (i.e., into Dt. 6-11).

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including the coming conquest and settlement.[1] Several motifs are interwoven into this material. We can only draw attention to some of them. First, the author is intent on showing the generosity of Yahweh in condescending to take this people under his protection and care. The past is a story of Yahweh's gracious acts. He 'fell in love' with the fathers and chose their seed to be his people (10:14f). He made them his special prossession and holy nation in the exodus (7:6-8*).[2] His special concern for Israel was shown in his care for Israel in the wilderness (8:5) and will be manifested in the abundance of blessings (7:14a). Israel should respond in gratitude.[3] This, we may recall, was a primary motif in the historical prologs of the suzerain-vassal treaty.

Second, the author has taken up the historical traditions to explain the meaning of Israel's history to it and to point out lessons. His interpretation takes place in combinations, juxtapositions and expansions of themes. He has a rather small stock of sermonic ideas. One of these ideas is that Israel will be temped to forget the God of the exodus and wilderness once it has settled and become prosperous. This idea is presented in a simple form in 6:10-12 and more elaborately in c. 8. In c. 8, wilderness wandering is juxtaposed to life in Canaan. In the wilderness Israel was in poverty and utterly dependent

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[1] There is no theophany in 6-11. The Sinaitic account (Dt. 5) is Dtr.

[2] Dt. 7:6-8, as we have already noted, has some plural material.

[3] I know of no passage where this is said in so many words, but it is implied by such passages as 6:12, 20ff. Moreover, the stress on the unmotivated love of Yahweh suggests the attempt to arouse a feeling of gratitude toward him.

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upon Yahweh. In the land they will live in great prosperity and therefore be tempted to feel self-sufficient. The wilderness sojourn had the purpose of preparing Israel to depend upon Yahweh in the land.

Several units are devoted to the conquest. Dt. 7:1-15(16) attempts to inculcate the demand to eliminate the previous inhabitants of the land and their sanctuaries so that Israel will not be tempted to defect from their God, Yahweh, who elected it in the exodus (v. 8b). If Israel remains pure, Yahweh will fulfill his promise to the fathers (v. 12b) by bestowing rich blessings on Israel (vv. 13-19). The author does not understand the elimination of the previous inhabitants to be an elimination of all temptations for all time to come, but it will at least wipe the slate clean. Later generations will have to fight the temptations of success.

Dt. 7:17-24 (25f) and 9:1-7a seek to instill confidence in the people in the face of insuperable odds.[1] In both passages Israel's fear of the enemy is cited and disputed by reference to the power and promise of Yahweh. Yahweh has demonstrated his power in his deliverance from the Egyptians and he will do likewise to the mighty inhabitants of Canaan (7:18ff). Dt. 9:4-7 goes on to argue against self-righteousness on Israel's part. Yahweh's gift of the land is not a reward, but the fulfillment of his promise and judgment on the previous inhabitants. Israel itself is not deserving.

The homilectical use of history has no counterparts in the classical covenant texts and is very infrequent in the Hexateuchal narrative itself

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[1] von Rad, Studies, pp. 45ff, traces these two units to militia holy war exhortations and stresses their divergence from covenantal paranesis.

On the other hand, it is characteristic of the Deuteronomic school, as the Deuteronomistic essay in 2 Kg. 17:7-18 shows. This tendency probably should not be associated with either of our models, although it has close analogies in the use of history in the historical prologs of Hittite treaties.[1] It is probably due more to an influence of wisdom humanism.[2]

Genesis 17:1-14, Exodus 6:2-8. The Priestly Source resembles Deuteronomy in tracing the origin of the covenant relationship to God's promise to the patriarchs (Gen. 17:1-14). Likewise, he understands it to be progressively realized in the subsequent events of sacred history (Ex. 6:2-8). Unlike Deuteronomy, the Priestly Writer did not develop this concept in the direction of the suzerain-vassal model of the covenant. God is the founder and ruler of the people of Israel.

Both Gen. 17 and Ex. 6 begin with a theophanic formula, a self-asseveration identifying the speaker. God's authority to establish a covenant derives from his theophanic presence (Gen. 17:1-3a). His right to speak is established by his very presence. History is not used to substantiate this claim. On the other hand, God's historical promises do constitute a part of the covenant. To Abraham is promised descendents (Gen. 17:2, 5f) and the land of Canaan (17:8), to the people deliverance from Egypt (Ex. 6:5f) and the land (6:8). The fulfillment of these promises has the significance of historical confirmations and embodiments of the covenant relationship.[1]

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[1] See McCarthy, op. cit., pp. 99, 119.

[2] McCarthy, ibid., p. 119; cp. M. Weinfeld, "The Source of the Idea of Reward in Deuteronomy," Tarbiz, 30 (1960), pp. 8-15 (in Hebrew).

Theophany, in P, establishes God's authority to enter into a relationship with Abraham and his descendents. The covenant is a fundamental promise, summarized in the covenant formula, which will be embodied and confirmed in specific historical acts. P employs the model of a sovereign who lays the foundation of a nation.

Conclusions. We have found that most of the covenant texts understand Yahweh to establish his authority by theophany, i.e., the public demonstration of his power, presence, concern and purpose. We consider this an indication of a sovereign-subject model because sovereignty depends upon the ability of the sovereign to impress his subjects with his capacity to deliver them from their enemies and to maintain order and justice within his domain.

The framework of the Covenant Code, viz., Ex. 19:3-8, 24:3-8 (also 20:22), contains references to Yahweh's manifestation upon Sinai (20:22) and his demonstrative acts in history (19:4). The Yahwist records a promise of Yahweh to demonstrate his power and presence in extraordinary events (33:14-16, 34:10). The Elohist recounts a sacral meal held in the visual presence of the 'God of Israel' (24:9-11). The divine appearance before the representatives of Israel molds them into a community. According to this same source, God begins his proclamation of demands with a theophanic self-asseveration, accompanied by an historical self-predication (20:2), and his threatening appearance before the people demonstrates his power to enforce his demands (20:20). The Priestly Writer also has God establish his authority to enter into covenant by theophany (Gen. 17:1-3a).

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[1] The 'law' too has a sign character: Gen. 17:9ff, cp. v. 1. P does not draw out the theophanic character of the promised acts (i.e., the visible demonstration of the divine power, presence and purpose).

Dt. 26:16-19 and the older fragments of Josh. 24 are less certain. Dt. 26:19a contains a promise to elevate Israel above all other nations as a visible manifestation of his existence. This promise may establish Yahweh's authority, but it is not particularly strong. In Josh. 24, there is a hint (v. 7b) that the recitation of Yahweh's deeds in Josh. 24 once had demonstrative significance, but it is now submerged in the rather lengthy review of history (vv. 2-13).

The use of history to demonstrate Yahweh's generosity toward Israel and Israel's obligation, out of gratitude, to remain loyal and obedient to him finds close parallels in the historical prologs of the Hittite suzerain-vassal treaty. The extant version of Josh. 24, as evidenced above all in vv. 16-19, understands Yahweh to have established his claim to Israel's loyalty by his past deliverances. Yahweh's gracious condescension is a recurring motif of the Deuteronomic paranesis (Dt. 6-11). This author also reviews history to discover its lessons for Israel.

Validation of the Covenant Relationship

Thus far we have examined the titles and images employed in covenant texts to determine which models of the covenant were in the minds of the authors and studied the ways the divine authority was established. In this section we shall seek to determine how the covenant relationship was put into force. We need to know to what extent each party participated, and how, in the act of validating.

It is through the act of validation that the relationship becomes binding on the parties. If God puts the covenant in force unilaterally, the sovereign-subject model is operative. If the people participate by agreeing to the terms, we may have either model, according to the mode of agreement.[1] If the agreement takes the form of a promissory oath, a suzerain-vassal model is operative.

Exodus 19:3-8, 24:3-8. In our investigation of this source we have identified titles which characterize the covenant as a relationship of a sovereign to his subjects. To establish his capacity to be Israel's sovereign, Yahweh referred to his manifest power, concern and purpose in his deeds in Israel's midst and to his theophany at Sinai itself.

The act of validation occurs in several stages in this account of covenant-making at Sinai. Ex. 19:3-8 record the striking of an initial agreement. Ex. 20:22ff record the promulgation of law. Ex. 24:3-8 record the proclamation of this law to the people, their ratification of the relationship, and a sacrificial rite which sealed it. We shall need to analyze each of these stages in turn.

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[1] The Egyptian monarchy was extremely unilateral. There was no place in the accession and coronation process for the popular acclaim of the Pharaoh: see Henri Frankfort, Kingship and the Gods, (Chicago: The University of Chicago Press, 1948), pp. 101-109. This evidently reflects the historical origins of the Egyptian monarchy: *ibid.*, pp. 15-23. Historically Mesoppotamian kingship did involve a bilateral decision. The king was 'elected' (by unanimous consent) by the council of elders: *ibid.*, pp. 215-30. This was probably reflected in the accession and coronation process. However, divine election came to so overshadow the popular election that the Assyrian texts, at least, do not have an acclamation as a part of coronation: *ibid.*, pp. 243-48. Official homage followed the crowning: *ibid.*, pp. 246f.

In Israel, the southern kingdom tended in the direction of the unilateral and the northern the bilateral. In both kingdoms, an acclamation by the subjects was a part of ascending to power. But Davidic theology vitiated the role of the people to a great degree, for Yahweh had chosen the family unconditionally and the people had no say in the choice of the king: cp., e.g., 1 Kg. 1f. However, the northern tradition involved the election of each king (1 Sam. 11:15, 2 Sam. 5:1-3, 1 Kg. 12:20, 2 Kg. 9:4-13). God did not, in this tradition, elect a house but designated a man: cp. Alt, "The Monarchy in Israel and Judah," *Essays*, pp. 239ff, on the two types of monarchy in the two kingdoms. On the ascension rites, see de Vaux, *op. cit.*, pp. 106f.

In Ex. 19:3-8, after Yahweh as it were presents his credentials, he makes a proposal of relationship (vv. 5f). The proposal is formulated in conditional terms: The protasis (v. 5a) outlines what Israel must do and the apodosis (vv. 5b-6a) describes the relationship which will result.[1] The 'conditions' of the relationship are:

If you will obey my voice / and keep my covenant.

The first of these phrases is a common one, employed in all eras of Biblical history, for compliance with a command.[2] The phrase 'keep my covenant' is less common than the first and most of the Scriptural occurrences are relatively late.[3] Here it must mean approximately the

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[1] Muilenburg, op. cit., pp. 352-355; cp. Beyerlin, Origin and History of the Oldest Sinaitic Traditions, p. 70. Baltzer, Bundesformular, pp. 37f, identifies Ex. 19:4 as an 'historical prolog' and vv. 5-6a as a 'general declaration' (Grundsatzerlärung). He says of Ex. 19:3-6 that "It is already a complete act of covenanting in nuce" (p. 38, our translation).

[2] There are not a large number of cases of שמע בקול with Yahweh as the one who is to be obeyed in the older Hexateuchal traditions, Gen. 22:18, 26:5, Ex. 15:26, 23:21f are all editorial. Gen. 26:5 and Ex. 15:26 associate 'voice' with laws in a Deuteronomic-Deuteronomistic fashion. -But we do find one certain Yahwistic example: Ex. 5:2. Like Ex. 19:5, the issue is the power to command. Unlike Ex. 19:5, it is a specific command at issue. Josh. 24:24 contains a pledge to obey using this phrase. -There is a great increase of occurrences in Dt.-Dtr. and Jer.

[3] The other occurrences of שמר ברית with Israel as the subject are relatively late: Gen. 17:9f (P), Dt. 29:8, Pss. 78:10 (negated), 103:18, cp. Ps. 25:10. -Ps. 132:12 is relatively old, but the king is

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same as the first phrase. 'Covenant' usually binds one or both parties to proscribed and prescribed behavior.[1] Demands implement the relationship.

The conditional formulation of the proposal makes it an offer which must be accepted by Israel to go into force. Admittedly this interpretation has not been seen by exegetes, who have rather read it as a timelessly valid principle of the covenant. We shall take up the question of conditions of maintenance in the final section of this chapter. Within the dialog itself, the conditions are met in v. 8, where the representatives of the people pledge that 'all that Yahweh says we will do.' This pledge satisfies the conditions for initiating the covenant relationship.[2] It has exercitive force, i.e., it brings into being the status of 'holy nation' and 'kingdom of priests.' The people subject themselves to the divine will and thereby become his subjects and he their sovereign.[3]

Ex. 19:3-8 sets the covenant-making in motion. After Yahweh appears theophanically before the people (so 20:22), he promulgates a

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the subject. Dt. 33:9 is also old, but it has a tribe (Levi), not all-Israel, as subject. It also uses a different verb: נצר. These two examples may, nevertheless, establish the possibility of relative antiquity of Ex. 19:5.

[1] Even P speaks of 'keeping the covenant': Gen. 17:9f.

[2] This interpretation is inevitable if one considers the alternative: that Yahweh will wait for a period of years to determine whether Israel has earned the right to be his people. -Within the dialog itself, the anti-thesis to accepting the conditions would be refusal of the conditions, i.e., refusal to submit to Yahweh's will, and thereby a rejection of the offer.

[3] Cp. the northern royal tradition.

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body of law (20:23-23:19). When the people pledged to obey Yahweh, he was empowered to enunciate law for them. Herein resides a peculiar feature of 'covenant': Yahweh promulgates law as a part of his assumption of power and validation of the covenant. The law derives from the originating act. Yahweh establishes the legal order at the outset of his reign.

Formally speaking, this feature resembles a treaty much more closely than it does the inauguration of a king. In a treaty, the 'stipulations' are a part of the agreement. The duties the vassal owes the suzerain are enunciated at the outset of the relationship. It is through the enunciation of these that the treaty relationship takes shape. Probably the idea of demands made as a part of the agreement was intrinsic to the concept of 'covenant' rather than an influence of the suzerain-vassal treaty on the covenant between Yahweh and Israel. It does not appear to be a determinant of the model of the relationship, but how the relationship was entered into.[1] In this account, the law promulgated belongs to a legal order and the promulgator has the power of a sovereign.[2]

Finally, the law is proclaimed and written down and the covenant is sealed by a sacrificial ritual (Ex. 24:3-8). The people must know and agree to the specific demands of its lord to conclude the relationship agreed to in principle in Ex. 19:3-8. They repeat the same pledge after hearing the law which they made in response to the proposal (Ex. 19:8, 24:3, 7, cp. v. 8). Thereby they ratify the covenant and make it binding on the twelve tribes of Israel.

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[1] 2 Sam. 3:21 and 5:3 demonstrate that a sovereign could make a 'covenant' with his subjects.

[2] See next two chapters.

Accompanying the pledge to obey the law as a sacrificial rite which sealed the relationship between the parties to the covenant. Sacrifices were made and the blood of the victims was sprinkled on the altar and the people. When he sprinkles the blood upon the people, Moses says:

> Behold, the blood of the covenant which Yahweh has made with you in accordance with all these words (i.e., the law). (24:8).

By imposing his law upon this people, he has claimed them as his people and entered into a 'blood brotherhood' with them. Its life and his life are henceforth inextricably bound up together.

To summarize, the pledge to obey Yahweh is an act of submission to him as sovereign. Israel becomes a legal community by recognizing a common locus of legal authority. In other words, it 'incorporates' as a legal community with Yahweh as its sovereign. Yahweh assumes his sovereignty and implements his legal order by promulgating law. By pledging to obey this law, the people ratify the relationship. A sacrificial rite seals the relationship.

Exodus 33:12-34:28. In the Yahwist's account of covenant-making at Sinai, the election language is not political enough to establish the sovereign-subject model with certainty. The chief evidence that this is the model operative in J's covenant is the arbitrary power and freedom accorded Yahweh. Yahweh will establish his authority through theophanic manifestations of his power and presence in the events in Israel's history.

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According to this source, Yahweh puts the covenant into effect unilaterally. He does not allow Israel to accept the relationship, but declares it to be in force by fiat:

> Behold, I seal a covenant (34:10).
> In accordance with these words I seal a covenant with you and with Israel (34:27).

The covenant has been concluded by Yahweh. The people are bound by it, but they are completely passive in its creation. The Yahwist's narrative lacks any sort of solemnization in which the people might participate. Ex. 34:27 corresponds in this source to Ex. 24:8.[1]

Just as in the Covenant Code traditions, law is imposed upon the people as a constitutive element of the relationship (so 34:27). Yahweh assumes sovereignty over Israel by promulgating law for it. Unlike the Covenant Code, however, J's covenant has only two demands, the prohibition of worshipping other gods (34:14) and making idols (34:17). These demands concern only Israel's relationship to Yahweh.[2] They protect his status within his community. The Yahwist does not allow the people to pledge to obey Yahweh, as does the framework of the Covenant Code, but he does protect the same status by prohibitions.[3]

The demands Yahweh imposes on his people are the kind that we would expect of a sovereign who was assuming power over his subjects.

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[1] Moses may 'elicit' the covenant: it seems to be given as an answer to the request for a sign of Yahweh's favor: Ex. 33:13, 16.

[2] This fact would agree with Gerstenberger's view of covenant provisions: "apodiktischen Rechts," p. 108.

[3] The Covenant Code also contains two versions of the first commandment, completely distributive in character: Ex. 22:19, 23:13b. The second commandment: Ex. 20:23.

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They govern the kind of thing, for example, that David would have imposed upon the delegation of elders from the northern kingdom (2 Sam. 5:3). On the other hand, it is uncertain to what extent the Yahwist accorded Yahweh power to promulgate law governing each man and his neighbor. He may not have understood 'secular' law to be divine command. However, we cannot be certain of this, for Yahweh does issue commands from time to time during the exodus and wilderness sojourn.[1] Moreover, he promises to guard the entire legal order from violation of its members:

> ...who will by no means clear the guilty,
> visiting the iniquity of the fathers upon the children
> and upon the children's children to the third and fourth
> generations. (34:7b)

This is Yahweh's role as 'supreme judge' of the community.[2]

To summarize, Yahweh validates the covenant relationship unilaterally. He acts analogously to be absolute monarch who imposes his sovereignty upon his subjects by fiat. The relationship imposes demands upon the people, but these demands simply protect Yahweh's exclusive claim upon them. Yahweh's role in the legal relations within the community is that of a guardian or judge. He may also have had at least some power to promulgate law as situations arose.

Exodus 24:1f, 9-11; 20:1-17, 18-21. The Elohist account of covenant-making, we have found, contains traditions from various eras of

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[1] E.g., Ex. 3:16-18, Num. (13:17-20), 14:8f.

[2] This idea comes to its clearest expression in E: Ex. 18:13ff. The king was something of a 'supreme judge' in Israelite society: de Vaux, op. cit., pp. 151f.

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history. The oldest element in E is probably the oldest version of covenant-making in the book of Exodus. It shows no awareness of the promulgation of law as a part of the covenant. The 'God of Israel' was the lord of a loose association of tribes who were united primarily by their worship of him. He effected a rudimentary community simply by his theophany of them. Neither of our models were found to apply to this stage of covenant history.

E's account, however, does contain the promulgation of law by God. He establishes his authority to do so by a theophany to all the people. He accompanies his theophanic self-asseveration at the beginning of the commandments with an historical reference which may be intended to identify him further or to show his generosity. Most of the features of this picture, we argued, suit the sovereign-subject model.

According to E's extant account, the meeting at Sinai began with preparations for God's appearance before the people (Ex. 19:3a, 10?, 12-15). God appeared before the people in dramatic eruptions of nature (19:16-17, 19). The people respond with fear and choose Moses to go up to meet this God in their behalf (20:18-21). The law is proclaimed (20:1-17) and written on tablets (Ex. 31:18) and Moses returns with it to the people (Ex. 32:15f). Probably he proclaimed the law to the people, but the account of it is no longer preserved in Exodus. The final act of covenant-making was the sacred meal of the elders upon the mountain before God (Ex. 24:1f*, 9-11).

God assumes the power of sovereign and validates the covenant unilaterally, simply by imposing his will upon the people. However, the people are allowed to participate in the finalization of the relationship. The meal in the presence of God is something like an 'audience' before majesty. We might say that E's account of the validation of the relationship stands somewhere between the bi-lateral process of Ex. 19:3-8, 24:3-8 and J's unilateral validation.

Like both of the accounts treated thus far, God enters into his reign by promulgating law for his subjects. The character of this law differs significantly from the other two sources. It is neither a full 'code' of law nor only prohibitions protecting the status of God in his community. It rather lays down the fundamental prohibitions and commandments of the legal community. It protects God's exclusive status within the community and the relations of members of society to each other. By promulgating the decalog, God lays the basis of a legal order upon which positive law could rest.

The concluding act, i.e., Ex. 24:9-11, once constituted a complete act of covenant-making itself. The sacred meal was an end in itself and did not bind its participants to an on-going legal order. Significantly, the word ברית does not occur in this unit. When the law was introduced into the covenant, the act apparently took on a binding character. The meal eaten in the divine presence evidently sealed the relationship of the people to this God and to each other.

To summarize, the Elohist's account portrays the process of validating the covenant relationship which is neither completely unilateral nor bi-lateral. God assumes the position of sovereign by imposing fundamental law upon this people unilaterally, but the people are allowed to participate in an audience before their lord as a part of the validation.

Joshua 24. We have been tracing two layers of tradition in this account of covenant-making under Joshua at Shechem. (a) The later account, which dominates the chapter, records a decision of Israel between 'serving Yahweh' and 'serving other gods.' The central section (vv. 14-24) is a dialog between Joshua and the people on the meaning and implications of choosing to serve Yahweh. It employs concepts which find their closest analogies in suzerain-vassal treaties and its view of history resembles that of the historical prologs of the Hittite treaties.

The validation process in the extant text is executed entirely by humans. It begins with Joshua's call to decision and the offering of alternatives (vv. 14f). The people respond by foreswearing a repudiation of Yahweh, who has acted as its God in the exodus, wilderness and conquest (vv. 16-18a). Then they affirm their intent to serve Yahweh (v. 18b). Joshua warns them of the consequences of their decision (vv. 19-20) and the people repeat their affirmation (v. 21). Joshua calls them to act as witnesses to their own decision and they affirm that they are (v. 22). Finally, Joshua calls them to repudiate 'foreign gods' in their midst and the people respond by reiterating their intent to serve Yahweh (vv. 23f). At the conclusion of the account, the stone erected under the oak at Shechem is also made a witness to the people's decision (v. 28b).

The central act in the validation process was Israel's decision to serve Yahweh (v. 18b, reiterated in vv. 21, 24). This is a response to Joshua's challenge to decide between Yahweh and the other gods today (vv. 14f). Moreover, Joshua makes sure that Israel is aware of the full consequences of its decision (vv. 19f). It had been duly warned that Yahweh demands exclusive loyalty and would punish defection severly. Later Israel could not plead ignorance. It had witnessed itself to its decision, and the stone would also act as a witness.

This process corresponds in its fundamentals to the establishment of a suzerain-vassal relationship. The decision to serve Yahweh has the character of a formal promise for which it would be held responsible. It is not in the strict form-critical sense an oath, for the witnesses are not deity and do not perform the sanctions.[1] However, the promise is binding and violation will be sanctioned by Yahweh. The people and stone are to witness to the commitment in order that Israel will know that her judgment is deserved when it comes.

We have already noted that the people foreswear their freedom to choose against Yahweh (vv. 16-18a). In view of what Yahweh had done for it, it could not choose against him, for that would be to forsake him. Its decision to serve Yahweh, thus, was not made in absolute, neutral freedom. The people felt constrained to this decision out of gratitude. This motif of moral constraint, too, was characteristic of the Hittite suzerain-vassal relationship. The suzerain recounted his gracious acts for the vassal to encourage a sense of obligation. In fact, though he exacted a promise of loyalty from the vassal he allowed even less freedom of decision than our passage allows Israel: Nowhere do we encounter the offer of a decision between the suzerain and other suzerains in a treaty.[1]

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[1] The definition of 'oath' is a solemn promise witnessed by deity and sanctioned by the witnessing deity: Gene Milton Tucker, op. cit., pp. 118-121.

Finally, the extant version has Israel repudiate 'foreign gods' and pledge to obey Yahweh. It is our opinion that these are merely echoes of the older version, but they are nevertheless preserved in this account. If Israel is to serve Yahweh, it must 'put away the foreign gods' among them (v. 23). V. 14 suggests that these deities were a part of Israelite tradition, though not 'indigenous' to the people. Likewise, if Israel is to serve Yahweh, it must 'obey his voice' (v. 24), i.e., the divine law. The significance of the divine law for the relationship established by Israel's promise to serve Yahweh is not developed sufficiently for any further conclusions as to the model of covenant operative in the passage.[2]

(b) The fragments of the older layer differ significantly from the dominant account. In them the title 'God of Israel' is applied to Yahweh and associated with the authority to command. History may function as a demonstration of divine power. The model operative in this layer of the tradition has not been identified with certainty, but the evidence lends itself well to a sovereign-subject model.

The process of validation in the older version has been obscured to such an extent that any attempt at reconstruction is necessarily speculative. The one fact that is fairly certain is that validation involved the promulgation of law. This can be inferred from v. 27a, where the stone witnesses the 'words of Yahweh.' Vv. 25f also refer to the promulgation of law.

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[1] The fact is that the vassal had no choice in most cases: He was forced to acknowledge the suzerain's authority.

[2] It is possible that the suzerain-vassal model had influenced only the general structure of the covenant, not the law.

If we take this as a key to what the remainder of the older account revolved around, we find the pledge to obey the voice of Yahweh (v. 24c) to suit it well. The people submit to Yahweh's will, his authority to impose commands upon it.

Finally, the title 'God of Israel' associated with Yahweh (vv. 2, 23) has been hitherto treated as a part of the older tradition. Of course, a title so common as this one should not be linked too closely to any layer of tradition or stream of tradition. Nevertheless, the title אלהיישראל went back to the earliest covenantal and tribal league traditions available to us. It is specifically associated with Shechem in Gen. 33:20.

We believe it to be a distinct possibility that this title, stated as an acclamation, formed a constituent part of the older account of validation.[1] In the phrase

> We too will serve Yahweh for he is our God (v. 18b),
> גם אנחנו נעבד את יהוה כי הוא אלהינו

if we remove the serve formula, we arrive at the acclamation:

> Yahweh is our God　　　　יהוה הוא אלהינו

The beginning of v. 17,

> For Yahweh is our God,　　　　כי יהוה אלהינו הוא

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[1] Smend, Bundesformel, p. 17f, entertains this as a possibility.

is quite similar.

This acclamation would form the premise of Yahweh's sovereignty in Israel. That is, by affirming Yahweh to be its God the people would be recognizing a common focus, loyalty to which would effect human community. The acclamation would be consonant with the pledge to obey Yahweh: To have Yahweh as its God, Israel must recognize his power to command. This version of covenant-making would have striking resemblances to Ex. 19:3-8. A pledge to obey is shared. Where Ex. 19:3-8 had Yahweh acclaim Israel as his people (vv. 5f), Josh. 24 has Israel acclaim Yahweh as its God. When Israel acclaims Yahweh as its God and pledges to obey him, it would be 'incorporating' as a legal community with Yahweh as the locus of sovereignty. Yahweh would assume the power of sovereign and put the relationship into effect by imposing law upon the people (cp. vv. 25, 26, 27a).

Deuteronomy 26:16-19. This small pericope combines the election language of Ex. 19:5f with the acclamation and pledge of Josh. 24. The language, however, lacks the political terms and roles which might demonstrate an awareness of the sovereign-subject model of the covenant. The only reference which can be construed to establish Yahweh's claim to Israel's loyalty and obedience is a promise in v. 19a to make his election visible on the plain of history.

The process of validation is a liturgical dialog between the people and Yahweh. The people acclaim Yahweh as their God (v. 17a) and pledge to obey him (v. 17b). Yahweh acclaims Israel to be his 'special possession' (עם סגלה) and 'holy people' (עם קדוש).

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The process of validation is bilateral. It points directly to the sovereign-subject model of covenant. When the people acclaim Yahweh as their God, they recognize his power to command.[1] Again, the recognition of Yahweh as its God is an act of 'incorporation' as a legal community with Yahweh as sovereign. Recognition of his sovereignty is the 'reverse side' of Yahweh's election. That is, to be Yahweh's possession and holy people means to be subject to his sovereign will.

Deuteronomy 6-11. We discovered in the first section of this chapter that Deuteronomy uses titles and images which were traditional to the covenant, but that he employed them in a modified way. Yahweh was Israel's God and Israel was Yahweh's people because of what Yahweh had done for it in the sacred history. Yahweh, thus, establishes his claim on Israel by his gracious acts. He is Israel's benefactor. This portrait of Yahweh, along with other features which recall the treaty, suggest that a suzerain-vassal model was operative in Deuteronomy's interpretation of the covenant between Yahweh and Israel.

If we ask what the process of validating the Deuteronomic covenant was, we find that the covenant relationship already exists in its essentials. The author nowhere suggests that Yahweh's status in Israel could be a matter of choice. Yahweh is the universal God who has condescended to be Israel's God in his election of Israel as his people (10:14f). Yahweh's claim to Israel's loyalty depends solely upon his initiative, his grace bestowed upon it in his deliverances. His claim to its obedience likewise was based upon his historical initiative (above all, 6:20ff). As its God Yahweh has the power to claim the obedience of his people.

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[1] The unit presupposes law to have already been promulgated (vv. 16, 17b).

To be sure, Deuteronomy has taken up the passage just studied, Dt. 26:16-19. It apparently understood this to be a formal validating act. Its position in the Code, just before the concluding blessings and curses (Dt. 28), suggests that the acclamations of this liturgical dialog were understood to be promises to which the parties could be held. That is, Dt. 26:16-19 functions in Deuteronomy as an oath would function in a treaty. Given the whole thrust of the paranesis, we must understand Dt. 26:16-19 to be re-affirmation and ratification of a divinely instituted relationship.

There is a real decision offered to Israel: It can obey or disobey its God. Israel must decide today whether it will obey or rebel. The promulgation of the law 'today' does to a certain degree create the legal community. Hence, the decision as to whether it will obey it or not determines the community's fate. However, its basic structures have been established by Yahweh in the past. The law promulgated in the present is for the phase of life the people are about to enter, settled life in Canaan. The people are not allowed the opportunity to accept this law in an exercitive act, i.e., an act which makes it valid and binding. Rather, the author seeks to elicit a commitment of the people to comply with the already valid law.[1]

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[1] Admonitions to obey the laws recur throughout the material: Dt. 6:25, 7:11, 12, etc.

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The introductory paranesis is specifically concerned with Israel's compliance with the first commandment, the foundation of the covenant order. Not only are there explicit warnings against apostasy,[1] but there are the commands to avoid contact with the previous inhabitants and to eliminate them and their religion,[2] and there are admonitions to remember Yahweh's deeds and not to forget him.[3] Israel's fundamental responsibility is to remain loyal to its God.

Deuteronomy stresses to a unique degree the necessity of inner obedience. There are a series of summaries of the divine will which call upon Israel to 'love,' 'fear,' 'cleave to,' 'serve' and 'swear by' Yahweh.[4] These attitudes-acts are directed toward the lord of the covenant. Deuteronomy's understanding of obedience is radically theocentric. Out of this basic orientation will flow obedience to his specific demands (10:12f).

The people will be held collectively responsible for the fulfillment of the law. While we find hints of collective responsibility throughout the paranesis, the most complete enunciation of it occurs in Dt. 28. In this chapter, which we shall treaty in greater detail in chapter six, the people are assured of blessings and the continuation of election if it obeys, and is threatened with natural and historical disasters leading to its complete elimination if it disobeys. Thus, divine sanctions enforce Israel's duty to obey its lord.

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[1] Dt. 6:14, 7:4, 16, 8:19f, 11:16f, 28. All are pl. addr. or connected with it.

[2] Dt. 7:2, 3, (4, 5), 16, 25f.

[3] Dt. 7:18, 8:2, 18, 9:7; 6:12, 8:11ff, (11:16).

[4] Dt. 6:5, 13, 24, 8:6, 10:12f, 20, 11:2, (13).

Although the author of Deuteronomy has virtually eliminated a process of validation, the model operative is that of a suzerain-vassal relationship. Dt. has simply stressed the element of moral obligation to Yahweh which we have observed in the Hittite suzerain-vassal treaties and Josh. 24 to such an extent that decision has been replaced by a re-commitment. D employs the liturgical dialog in 26:16-19 to allow the people to verbalize their commitment to Yahweh and to obey his will. It expresses Yahweh's commitment to Israel as well. His commitment, created in the past and affirmed in the present, will continue until the people disobey him.

Genesis 17:1-14, *Exodus 6:2-8*. We have found that the Priestly Writer, like the author of Deuteronomy, roots the covenant relationship in the initiative of God in the past. Unlike D, P does not draw conclusions from this that result in a suzerain-vassal model of covenant. Rather, P portrays God as the founder and sovereign of a people. God establishes his authority to enter into covenant simply by his theophanic presence. His promises look forward to embodiments and confirmations of the covenant relationship.

According to the Priestly view, the covenant relationship is validated by divine fiat. P replaces the traditional verb in the phrase 'make a covenant,' כרת , 'to cut,' with the word קום in the Hifil, 'to establish.'[1] The idea of an agreement struck between

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[1] Eichrodt, *OTTh* I, p. 56. P also uses 'grant a covenant' thrice (Gen. 9:12, 17:2, Num. 25:12).

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two parties has been supplanted by that of a structure, with a great deal of solidity, built by one party for the other.[1] In spite of his departure from tradition, however, one can see P's roots in J's unilaterally validated covenant.[2]

P too has God impose demands upon his people as a part of the validation of the covenant. God instructs Abraham and his descendents to practice circumcision in order to symbolize the covenant in their bodies (Gen. 17:9-11). This is the only demand imposed upon the people in the covenant texts. However, if the sequence of Ex. 6:6-8 was intended to be historical, the communal structures revealed at Sinai, i.e., the plan of the sanctuary, the sacrificial rites, the orders of clergy, and the other ordinances for communal life, belong within the covenant.

To summarize, God functions as the founder of the people of Israel. He sets up the institutional structures and practices of this community as the internal covenantal order. The cultus is at the center. God will rule through the institutions that he has founded.

Conclusions. In this section we have been investigating the process by which the covenant was put into force in order to reconstruct the model of the relationship established. We can discern certain patterns in our texts. In all of them, God entered into power by promulgating law. The texts diverge with regard to the part the community played in the validation of the covenant. The classical covenant texts range from unilateral to bi-lateral validation. The texts corresponding to the suzerain-vassal treaty stressed the binding promise of the people to loyalty and obedience to Yahweh.

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[1] קום in the Hif. is often used of construction: Ex. 26:30, Josh. 7:26, 8:29, 2 Sam. 24:18, etc.

[2] Cp. M. Newman, *People of the Covenant*, p. 150. Newman rightly connects Gen. 17 with Gen. 15:7-21 (J). However, J's version of the Sinaitic covenant (cp. *ibid*., pp. 39ff) is akin to P too.

The Yahwist and Priestly accounts of covenant-making have God put the covenant in force unilaterally. God simply proclaims the relationship to be in effect and promulgates law as a part of it. The legal community comes into being by the unilateral initiative of its sovereign. J's law is limited to the protection of Yahweh's exclusive claims to Israel's devotion. In P, God imposes a sign in the flesh of his people to claim them for his covenant and sets up an institutional structure for his rule.

The framework of the Covenant Code (Ex. 19:3-8, 24:3-8), the older fragments of Josh. 24, and Dt. 26:16-19 have bi-lateral validation of the covenant. Divine sovereignty is established by the consent of the subjects in the form of a pledge to obey Yahweh. Yahweh receives his authority to promulgate law for his people. The legal community comes into being by the participation of both parties. In Ex. 19:3-8, Israel accepts Yahweh's offer of election by recognizing his power to command. In the older version of Josh. 24, if our reconstruction is correct, Israel acclaims Yahweh as its God and recognizes his power to command. Dt. 26:16-19 combines the two acclamations, along with the pledge of obedience which originally accompanied each, in a liturgical dialog.

The Elohist account falls somewhere between unilateral and bi-

bi-lateral validation. God assumes the position of sovereign by imposing law upon Israel unilaterally. This law lays down the foundations of the legal order with Yahweh as its God. The people are not allowed to accept this law. However, they are allowed to participate in validation by eating a meal in the presence of the lord.

The extant account of the covenant-making at Shechem (Josh. 24) and the book of Deuteronomy lay stress on Israel's commitment to serve Yahweh. In Josh. 24, the decision of the people to serve him has the character of a binding promise sanctioned by God and witnessed to by the people themselves. The people feel constrained to choose to serve Yahweh, but they are responsible for it nevertheless. Deuteronomy stresses the moral obligation of Israel to Yahweh to such an extent that it no longer allows Israel to decide, but calls for a recommitment. The people must inwardly commit themselves to be loyal and obedient to their lord. This commitment is sanctioned by God. The covenant in both Josh. 24 and Dt. 6-11 (+26:16ff/28:1-45) closely resembles the relationship of a suzerain to a vassal.

Conditions of Maintenance and Divine Sanctions.

A conditional statement is a statement in the form 'if . . . then . . .' in which the protasis is an action or state and the apodosis is a fate appropriate to the action or state. Conditions of maintenance and provisions for divine sanctions are types of conditional statements. They imply each other. A condition of maintenance is such only if non-fulfillment will result in termination.[1] A provision for divine sanctions assumes that some other act or state could exist which would not bring divine wrath.[2] Hence we have combined the two in this section.

The question of conditionality is a crucial test of covenant models. Conditionality is an essential ingredient in a suzerain-vassal treaty. It is through 'blessings and curses' that the promises of the treaty are sanctioned. In order for any demand to be binding, it must be sanctioned. The design of the sovereign-subject model also holds sanctions in prospect for the violators of demands. However, the law of a legal community governs the acts of the members of the community, not the acts of the entire community. Hence, there is no place for a conditional relationship between a sovereign and the community that he governs.

Exodus 19:3-8, 24:3-8. Let us review our conclusions regarding this account of covenant-making before we launch into our final topic. The people of Israel were offered the role of subjects and they accepted this role by submitting to Yahweh's sovereignty. History and

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[1] We have chosen the term 'condition of maintenance' to indicate the on-going duty of the covenant partner(s) to the relationship necessary to its continuation. M. Noth, "Righteousness and the Law," Essays, pp. 118ff, is correct that a covenant or treaty assumes obedience as a matter of course, and thus offers blessings not as a reward but as a concommitant of the order established by treaty. Nevertheless we can speak of the necessary duties as 'conditions of maintenance.'

[2] We are using the term 'divine sanctions' to designate the divinely enforced penalties for breaking oath, normally formulated as 'curses.' 'Blessings' are also sanctions in a secondary sense.

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theophany were both referred to in order to establish Yahweh's qualifications for sovereignty. The covenant relationship was initiated by a proposal of Yahweh and consented to by the elders of the people. Yahweh assumed sovereignty by imposing a 'code' of laws upon the people. The act of sealing the covenant involved the acceptance of the legal elaboration of the divine sovereign will and a blood-sprinkling rite symbolizing unity and fraternity.

The attempt to identify the form of Ex. 19:5f has achieved varying results. J. Muilenberg has analyzed it as a 'covenant conditional'[1] and Baltzer calls it a *Gründsatzerklärung*, a declaration of the fundamental structure of the relationship.[2] McCarthy objects to these analyses that there is no 'stipulation' in it and proposes the term 'conditioned blessing.'[3] He also finds it parallel to Deuteronomic exhortation and the prophetic admonition.[4] The fact is that these various suggestions are somewhat incongruent.[5]

We believe that Muilenberg and Baltzer are nearer the truth when they analyze these two verses as a statement of the basic structure of the covenant between Yahweh and Israel. However, we suggest that the conditional formulation is not intended as a timeless principle but a statement of the conditions for entering it. That is, vv. 5-6a look like an offer made by Yahweh to which the people respond in v. 8. The people accept the offer by fulfilling the conditions, viz., pledging to obey Yahweh. It must be admitted that the response does not repeat the conditions *verbatim*, but this fact does not appear to us to be very important.

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[1] Muilenburg, *op. cit.*, pp. 352-355.

[2] Baltzer, *op. cit.*, pp. 37f.

[3] *Op. cit.*, pp. 155f.

[4] *Ibid.*, p. 156.

[5] A conditional prophecy is not a conditional blessing, although they share the same 'mentality.' -Neither seems appropriate to Ex. 19:3-6: Blessings usually have to do with productivity, fecundity, health, military prowess, and so forth. The status of election does not seem appropriate to blessings. Admittedly, Dt. 28:9 does include it as a blessing, but it stands out as a *theologumenon*, not a real blessing. Nor does the categorization 'conditional prophecy' apply to Ex. 19:3-6, for the protasis is a status to be conferred on Israel in the very event, while prophecy looks to future events.

The pledge to obey Yahweh has exercitive force, i.e., it puts the relationship into effect. The question is whether and to what degree the pledge also has commissive or promissory force as well. That is, in order that the fulfillment of the pledge be a condition of the covenant it must be a formal, binding promise. There can be little doubt but that the pledge to obey is a promise of constant behavior. Nevertheless, the promissory force is subordinate to the exercitive force, for it is not formalized. In ancient law, promises were formalized by oath or human witness. Neither of these is done in Ex.19:3-8 or 24:3-8. The absence of an oath with sanctions demonstrates that the fulfillment of the pledge to obey is not an explicit, formal condition for the maintenance of the relationship put into effect by the pledge.

Ex. 24:3-8 does report an act by which the covenant was formalized. The pledge to obey is repeated several times. The relationship is understood to be put into effect by the pledge. The sacrificial rites which accompany the pledges, however, do not formalize them. That is, the rites do not function as oath and sanctions. Rather, they symbolize the relationship between the two parties created by the

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covenant. The relationship is one of 'blood,' i.e., a kinship has been forged between the two parties.

If we follow the sovereign-subject model, a model to which the election-declarations appeal in their images, we can interpret the evidence more adequately. The conditions themselves are the reverse side of the declarations. That is, if Israel recognizes Yahweh's power to command, it will be indeed a 'holy nation' and 'kingdom of priests.' This is not too sophisticated for the Israelite mind, for in fact sovereignty and the power to command were associated in Israelite thought.[1]

If we follow the sovereign-subject model, the problem of 'Israel's disobedience' does not emerge. There is no place for conditions of maintenance or provisions for termination in this sense. The people recognize Yahweh's power to command. He promulgates his law. The community is maintained by the joint effort of the people and Yahweh deciding cases, adjudicating disputes, and punishing offenders. This is how any legal community operates. The law, as we shall show in the next chapter, protects the community from the violations of its members and settles the disputes between them.

Exodus 33:12 - 34:28. In previous soundings of J's account, we have found that Yahweh initiated his relationship to Israel unilaterally by proclamation. His theophany had demonstrated his power and he promised to continue to demonstrate his powerful presence among his people. It is his presence in it that distinguishes it. Yahweh imposes his sovereign will on his people as a part of the validation of the covenant. The law particularly protects Yahweh's status within Israel.

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[1] See Chapter one.

Since the Yahwist's version does not allow Israel to agree to the relationship, there is even less of a contractual charactr here than in Ex. 19:3-8, 24:3-8. McCarthy has already made this point successfully.[1] The only possible conditions of maintenance and provisions for termination occur in Ex. 34:6-9. Ex. 34:6-7 are a description of Yahweh's grace and justice. We shall discuss this very important text in chapter six. Here we need only to show that it does not propose provisions of termination of the covenant between Yahweh and Israel, but in fact promises his grace and guardianship of the legal order. The party to whom Yahweh will show his חסד and אמת is designated 'thousands.' It may be used here to stress the great multitude to whom grace is shown. The party who will suffer judgment is not a people or even a multitude, but the 'guilty.' He is a *pater familias*. The punishment will take effect in this person and his family for several generations.

In a legal setting like the covenant, this description of Yahweh functions as a promise of grace to the general populace and a threat of punishment by God for those who violate the law. The threat of judgment to the guilty few would be a promise of grace to the guiltless many, i.e., a promise to maintain the legal order.[2]

Ex. 34:9 does give a collective interpretation to the threat of

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[1] *Op. cit.*, pp. 160ff.

[2] Cp. Westermann, *Basic Forms*, pp. 204f, on judgment of the enemies as salvation to Israel.

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punishment in 34:6f. It does not state a condition of maintenance or provision of termination, but it does worry over the possibility that Yahweh might treat the 'stiff-necked people' under the category of the guilty (34:7b). Moses seeks to persuade Yahweh to show them, now and henceforth, the forgiveness promised to thousands (34:7a).

Parts of 34:9 fit the Yahwistic source very poorly and indicate that its interpretation of vv. 6f cannot be ascribed to the Yahwist. The hope that Yahweh will accompany Israel and take it as his inheritance coheres well with J's thought (as expressed in 33:12ff). However, for J the problem of Yahweh's accompaniment of his people is a question of promise and assurance in 33:12ff, not of Israel's sinfulness. It is another Sinaitic tradition, viz., 24:12-15, 31:18 - 33:6, somewhat of a tangle itself, which raises the problem of Israel's sin.[1] Moreover, it is in this material that we encounter the phrase 'stiff-necked people' (עם קשה ערף). This phrase, and the request for pardon which echoes 34:7a, must have been interpolated into 34:9 by the editor who incorporated the 'golden calf' narrative into the older tradition.[2] The placement of 34:9 is also doubtful: We believe that it was once a part of the beginning unit of J's account (i.e., 33:12-16).

To summarize, J does not contain conditions of maintenance or provisions for termination. The covenant does contain law, but it

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[1] The accomodation offered in Ex. 33:1-3, *viz.*, that Yahweh will send an angel in his place in order not to annihilate Israel by accompanying it, would have been totally unacceptable to J, who considered Yahweh's accompaniment the essence of election. - We shall treat this complex of traditions of rebellion at Sinai in chapter six.

[2] Cp. Beyerlin, *op. cit.*, p. 24.

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cannot be interpreted as the provisions of a treaty which had to be fulfilled in order to maintain the covenant. It is, rather, to be understood as a legal protection of an order with Yahweh as sovereign and his people as his subjects. Yahweh promises to support this order with divine sanctions against violators.

Exodus 24:1f, 9-11; 20:1-17, 18-21. According to the Elohist's Sinaitic traditions, the people of Israel consolidate around the God of Israel. The relationship is entered into formally in a common meal in the presence of the lord of the covenant. The title of this God, 'God of Israel,' indicates how intimately his existence was bound up with that of his people. According to E, the God of Israel imposed a legal order unilaterally on the people created by allegiance to him. The people assume within the covenant the responsibility of subjects of obeying their sovereign.

The Elohist's account of the sealing of the covenant provides no explicit means for the continuation of the relationship between God and his people. The event lacks extension in time. Within E's over-all account, the act of eating together in the presence of God was understood to have the effect of binding the humans to each other and to the God in their midst, but this effect is not made explicit. There is no structure that results except the 'sense' of community and divine favor. This sense of community would have had to be renewed periodically.

The Elohist also preserves an account of the giving of law at Sinai. As in J, this law is imposed without consent and therefore noncontractually. There are two mentions of divine sanctions in it (20:5b-

6, 20). Ex. 20:5b-6 occurs in the decalog as a conclusion to the first two commandments.[1] Traditio-historically, it is a combination of the description of the Yahweh's grace and justice (Ex. 34:6f) and a declaration of Yahweh's exclusiveness (Ex. 34:14b, attached to the first commandment).[2] Here the declaration sanctions the first and second commandments. It threatens anyone who violates them with punishment, because Yahweh is jealous. The threat is not collective.[3]

An allusion is made to divine sanctions during the public theophany (Ex. 20:20). God's awe-inspiring display of power will teach the people to fear him and avoid arousing his wrath by sinning. The allusion is general and indefinite. It establishes the authority of God's law. It is hardly a threat of covenant termination for nonfulfillment of conditions.

The Elohist's covenant-making narrative as a whole lacks conditions of maintenance and provisions for termination. The law is given with threats of divine sanctions for violation. The act of sealing the covenant forges a bond of sacred fellowship. Israel is a community with a God at the center. It is through the presence of this God that the community is united together. God is, in a word, sovereign of the people of Israel.

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[1] See Zimmerli, "Das zweite Gebot," Gottes Offenbarung, pp. 236ff.

[2] Some of the language of the description is "Deuteronomic": ibid.

[3] It is not explicitly so: We cannot determine whether there were any hidden psychological assumptions, such as corporate personality.

Joshua 24. Let us divide the study of this text into the investigation of the extant text for conditions of maintenance and provisions for termination and the reconstruction of the view of divine sanctions in the older fragments. (a) We have found that the extant account of the covenant-making at Shechem has been constructed upon a suzerain-vassal model. Yahweh's authority to claim Israel's loyalty was established by referring to his gracious acts in Israel's behalf. The covenant relationship was validated by Israel's promise to obey him. This promise is witnessed to by the people and would be sanctioned by Yahweh.

The covenant established by Israel's promise to serve Yahweh has clear provisions of termination:

> If you forsake Yahweh and serve foreign gods, then he will turn and do you harm and consume you, after doing you good (v. 20, cp. vv. 19, 27b).

The last clause of this threat is a hint at the blessing for obedience. On this basis we can say that Joshua's admonition,

> Now fear Yahweh and serve him perfectly and faithfully and set aside the gods... (v. 14, cp. v. 23),

constitutes a condition for the maintenance of the covenant relationship. The conceptual world of the suzerain-vassal treaty is clearly operative in this version of the covenant.

To impose this condition of maintenance on Israel and to sanction it with divine wrath for non-compliance is to treat the people as a collective entity over against Yahweh. The community must have an effective will capable of decision and action for it to be responsible for meeting this condition. It must have an independence and selfsubsistence apart from Yahweh. It must have its own 'sovereignty' within its own structures, i.e., the power to make decisions on behalf of the entire people.

(b) The older version of this event had the enactment of divine law at its center. Yahweh established his authority over the community by referring to his demonstration of power in history. The covenant was validated by Israel's acclamation of Yahweh as its God and pledge to obey him. The covenant model appears to have been a sovereign-subject relationship validated bi-laterally.

The older version of the event at Shechem, unlike the Sinaitic narratives of covenant-making, concludes with an act of witness (vv. 26b-27a). A stone was set up in the sanctuary as a witness among the people (תהיה בנו לעדה) to what Yahweh had said. While בנו can be translated 'against us' (RSV), it could just as well mean 'among us.' In any case, it does not necessarily allude to threats of collective sanctions. In fact, it is very uncertain what is purpose was. We only know that it witnessed to the divine law (v. 27a), not to the promise of Israel to serve Yahweh (v. 27b).

What purpose would a stone witnessing to the divine law serve? There is no evidence that the stone was inscribed with the law. Rather, we have here something of a memorial stone. It probably witnesses to the event of promulgation and calls to consciousness the fact that the people were under this divine law. The actual provisions of that law were recorded in 'the book of the law of God.' Thus, there is no reason to see the 'witness stone' as evidence of provisions for termination.

There are no clear signs of conditions of maintenance and

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provisions for termination in the remainder of the older fragments. Since 24:19f seem to echo the description of Yahweh's grace and justice (Ex. 34:6f, 20:5f), we may surmise that the older version contained such a confession. This would mean that it understood divine sanctions to protect the legal order.

Deuteronomy 26:16-19. We have in these verses an account of covenant-making in which each party acclaims the other. The language of the unit and the mode of establishing divine authority do not point decisively in the direction of the sovereign-subject model nor, for that matter, to the independence of this unit from Deuteronomy. The fact that in it the covenant is validated by a bi-lateral act does demonstrate that the sovereign-subject model is operative in it and differentiates it from conceptual framework of the Deuteronomic paranesis.

Dt. 26:16-19 have no conditions for maintenance nor provisions for termination. The passage is a dramatic demonstration of the fact that the law need not be understood as the provisions of a treaty whose fulfillment maintains the relationship. The law is clearly introduced into the covenant in the pledge to obey Yahweh, yet there is no indication of conditionality. The law is the will of a sovereign for his subjects.

Deuteronomy 6-11. The introductory paranesis gives a dual answer to the question: Why should Israel obey the law?

(1) The law was commanded by Yahweh your God, who has been gracious to you and chosen you as his people.

(2) Obedience to it will assure you of a continuation of his favor, while disobedience will surely bring his wrath.

Thus far we have chiefly been exploring the first of these. We have found that the relationship between Yahweh and Israel had been initiated solely by Yahweh in the past. The portrait of Yahweh is that of a paternalistic benefactor of the powerless. Israel owes its benefactor obedience to the rules which he gave it for its welfare.

The second of these two answers introduces the question of conditions of maintenance and provisions for termination. In the introductory paranesis the conditions of maintenance are stated as assurances of grace attached to admonitions to obey the law.[1] Divine favor has not been 'earned' by Israel. It was freely bestowed upon Israel. Obedience to the law will maintain or assure the divine maintenance of the 'order of grace' established by Yahweh.

Within the introductory section threats of termination are attached only to the warnings against apostasy.[2] In the Code, too, divine sanctions directed to the people are threatened only for the violation of the first commandment (13:18).[3] At the conclusion of the Code, however, we find conditional blessings for obedience and curses for disobediences to the whole law (Dt. 28). While apostasy represents the gravest threat to the community's existence, all major violations of the law are dangerous.

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[1] Dt. 6:18f, cp. v. 24, 7:11/12b, 8:(1), 6/7ff, cp. 10:13, (11:13, 22).

[2] Dt. 6:15, 7:4, 8:19f, 11:16f. All pl. addr. or connected with it.

[3] Unless this sanction is attached to the herem rule (v. 18a), a less like possibility.

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Like the extant version of Josh. 24, the book of Deuteronomy must treat the people of Israel as a collective entity, with its own effective will, over against Yahweh. In order to be consistent, the author had to conceptualize the law as duties owed to Yahweh. This, as we shall see, he actually did. The entire covenantal tradition was consistently revised to correspond to the relationship of a suzerain to his vassal.

Genesis 17:1-14, Exodus 6:2-8. According to the Priestly Writer, God has established his relationship with the people of Israel unilaterally. It was initiated in promises made to the ancestor Abraham and realized progressively in history. Yahweh was the founder and sovereign of the legal-cultic community Israel. He ruled, primarily, through the structure of the cultus.

The Priestly Writer specifically excludes from the covenant conditions of maintenance and provisions for termination. This is the only tradition of the covenant between Yahweh and Israel which makes it explicitly unconditional. P describes the covenant as 'everlasting' (Gen. 17:7). Nothing in its law, aside from the independent Holiness Code, suggests conditionality. The community is organized to protect it from communal catastrophe.[1] The law applies to the individual and violation leads to his expulsion from the covenantal order (Gen. 17:14).

P can be seen, following Eichrodt, as representing an opposite tendency to D. That is, D stresses the conditionality of the covenant and P its grace-maintained basis.[2] Eichrodt considers each to be a one-sided emphasis of what was originally a unity. According to our analysis, both conditionality and unconditionality were unknown in the classical covenant. Both 'conditionality' and 'unconditionality' assume a disjunction between Yahweh and his people, an independence of the people over against Yahweh, which could have collective duties imposed upon them for which they were responsible. P takes pains to deny this possibility, while D makes it an axiom.

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[1] Cp., e.g., Lev. 10:17, Num. 1:53, 8:19. On this topic, cp. vonRad, OTTh I, pp. 248, 250, 263-272.

[2] OTTh I, pp. 52-58.

Conclusions. In this section we examined the covenant texts to determine whether there were conditions of maintenance and provisions for termination of the covenant. We took the absence of these to be a sign that a sovereign-subject model was operative, and their presence to be an indication of an interpretation of the covenant according to suzerain-vassal model.

The classical covenant texts lacked conditions and divine sanctions for non-fulfillment of conditions. Where the people made promises as a part of the validating act, as they do in Ex. 19:3-8, 24:3-8, the older version of Josh. 24, and Dt. 26:16-19, the promises are not sanctioned by God. The exercitive force of the pledges to obey clearly predominates over the commissive. These promises institute the sovereign-subject relationship.

When divine sanctions are broached in the classical covenant texts, they are promises of God's support of the legal order. Sanctions correspond to demands. A sovereign legislates for the acts of members of a legal community in behalf of the society, for the good of the community. The divine sanctions are the acts of the 'supreme judge' of Israelite society.

When P formulated its covenant, God's freedom to judge his people had been proclaimed by the prophets and confirmed in the exile. P reaffirmed the sovereign-subject model in the form of an unconditional, everlasting covenant. A total rejection of Israel, according to his thought, would be impossible. The covenant would remain 'throughout your generations' and even the land of Canaan would remain in its possession for ever. This understanding is new to the covenant: One can affirm unconditionality only when conditionality is conceivable.

Conditions of maintenance and provisions for termination are, of course, essential ingredients in a suzerain-vassal treaty. The duties a vassal owes his suzerain must be sanctioned to have any force. The covenant texts in which threats of divine judgment upon the community are found are modelled upon the suzerain-vassal relationship. Both Josh. 24 and Deuteronomy evidence this model. In both, the people were conceived as having an independent collective will capable of responsible decision and action.

Summary and Conclusions

We set out in this chapter to determine the models of the covenant operative in the covenant texts. We found that a majority of these texts corresponded to the sovereign-subject model. There were two constructions of this model, sovereignty by fiat and sovereignty by consent of the subjects. Deuteronomy and the extant account of Josh. 24 tended to conceive the covenant relationship on the analogy of a suzerain to his vassal. The following table summarizes our findings:

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	Sovereignty by fiat	Sovereignty by consent	Suzerain-Vassal
Ex. 19:3-8, 24:3-8		x	
Ex. 33:12-34:28(J)	x		
Ex. 24:1f, 9-11; 20:1-21 (E)	x		
Josh. 24			x
Josh. 24 (older fragments)		x	
Dt. 26:16-19		x	
Dt. 6-11			x
Gen. 17, Ex. 6 (P)	x		

Let us conclude this chapter with a review of the models of covenant found in the covenant texts.

The Sovereign-Subject Model. None of the covenant texts bestow the title 'king' (מלך) on Yahweh. The absence of this key word has been one of the prime reasons why the sovereign-subject has not been proposed often for the covenant.[1] Nevertheless, we do find in Ex. 19:6a titles for Israel which are appropriate to subjects: 'kingdom of priests and holy nation.' These titles designate Israel as a nation with a God as its sovereign.

The one title bestowed upon the lord of the covenant, 'God of Israel,' signifies a much more intimate relationship to this people than a suzerain would have. God was the source and ground of the community and its law. It was through the recognition of his sovereignty that Israel became a community.

The language of *possession* (Ex. 19:5b, 34:9, Dt. 7:6, 26:18) coheres well with the idea of sovereignty. The people belonged to its

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[1] Cp. the attempts to refute Buber's proposal, discussed in *Kingship of God*, pp. 21-58, particularly 36ff, 55ff.

God. It derived its value from his high estimation. God received it as his share in the world of nations (Ex. 34:9, also Dt. 32:8f). As his possession, it was his special sphere of authority. He claimed possession of it by imposing his will upon it.

Most of our texts speak of Israel's holiness in connection with covenant. By having Yahweh as its sovereign, Israel becomes a holy nation (Ex. 19:6a) or people (Dt. 7:6, 26:19). Yahweh's presence in Israel sets it apart as unique among nations (Ex. 33:16). Israel, thus, derives its identity and distinctiveness from its intimate association with the God of all nations.

In order to establish his authority over this people, Yahweh manifested his power, presence and concern in theophany. His theophany on Mt. Sinai was a visible demonstration of the power to give and enforce law (Ex. 20:18ff, 22). To see him was a special favor accorded the people (Ex. 24:9-11, cp. 33:17ff). His power was also visibly demonstrated in his past acts (Ex. 19:4, Josh. 24:7b) and would be manifested in wonders and marvels of the future (Ex. 34:10). These theophanic manifestations of divine power and presence establish his capacity to rule this people.

The God entering into intimate relationship with Israel was God of all nations. He had an intrinsic power apart from his sovereignty over Israel. It might be said that he had a world-wide 'power-base' (Ex. 19:5b, Dt. 26:19a, also Dt. 7:9, 10:14). God's transcendence of the people of Israel was the basis of freedom for it. That is, because he owned all nations, he was free to set aside one for special favor and responsibility.

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In all of the covenant texts, the promulgation of law was a part of the process of assuming power. Unlike the normal rule of a sovereign, the covenant involved the promulgation of law at its initiation. This feature probably derives from the concept of covenant-making, *viz*., the making of an agreement between parties which enunciated what was expected of one or both. In the texts in which the role of Yahweh is that of a sovereign, he promulgates the law of a legal community. By promulgating law, God claims the community and initiates its legal order.

The covenant texts diverge with regard to the mode of validating the covenant. In J and P, Yahweh puts the relationship in force unilaterally. Yahweh's arbitrary power and freedom (cp. also Ex. 33:19,' 34:6-7a) resemble an absolute monarch's. Over against this view, we have a much different and more 'democratic' intuition of community in the framework of the Covenant Code (*viz*., Ex. 19:3-8, 24:3-8), the older fragments of Josh. 24, and Dt. 26:16-19. In these accounts, the people are allowed to consent to the relationship. In all of them the people recognize Yahweh's power to command and in Josh. 24:18b and Dt. 26:17a they acclaim him to be their God. Finally, in E the covenant is validated by a unilateral promulgation of law by God and by an act in which the elders of Israel participate.

Although the making of the covenant involved explicit or implicit promises of the people, these promises are not formalized and sanctioned. The only divine sanctions mentioned in these traditions are held in prospect for violators of the law. God guards the legal order against violation. The concluding rites in Exodus (24:3-8, 9-11) stress kinship and divine grace.[1] In Josh. 24, a stone is set up in the sanctuary to remind Israel that it lives under the divine law (v. 27a).

The Suzerain-Vassal Model. There was no specialized language for suzerainty in Hebrew and hence the language of the extant text of Josh. 24 and Dt. 6-11 do not provide linguistic evidence of the suzerain-vassal model. Each text does have linguistic peculiarities. Josh. 24 uses the phrase 'serve...' numerous times. It seems to be stressing the cultic ties of Israel to Yahweh and other deities. Deuteronomy employs traditional covenantal language in new ways. The covenant relationship was a gracious condescension of Yahweh initiated in Israel's sacred past.

Both of these texts establish Yahweh's authority over Israel by recalling his gracious deeds in its behalf. His generosity should make Israel feel morally obligated to remain loyal and obedient to him. According to Josh. 24, Yahweh has acted as Israel's God in his past deeds (vv. 17, 18). In Deuteronomy, Yahweh is Israel's great benefactor, bestowing on it unmerited love and concern.

Each of these interpretations of the covenant tradition has Israel commit itself to the relationship in the present. Joshua poses this as a genuine decision (24:14f). The people foreswear the freedom to decide against Yahweh (24:16-18). Deuteronomy has Israel and Yahweh recommit themselves to the relationship established by Yahweh (Dt.

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[1] 2 Sam. 5:1 reads: "We are your bones and flesh." We are not sure to what degree this is a legitimate parallel to the covenant ritual, but it is striking.

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26:16-19 in the Deuteronomic context). In the paranesis the author stresses the need of an inner commitment, a commitment of the heart to love and obey Yahweh (e.g., 6:5ff, 10:12f).

The law is a part of the covenant. In Josh. 24 the divine law stands in the background while Israel's pledge to serve Yahweh takes the foreground. This promise is witnessed (vv. 22, 27a) and divine sanctions are held in prospect for the community for breaking it (vv. 19f). Deuteronomy gives a central place to the law as a whole. Disloyalty and disobedience are alike under sanctions (Dt. 28:15ff). Deuteronomy also holds the entire people accountable for compliance with the conditions of the covenant.

The two texts which evidence the suzerain-vassal model of covenant possess a distinct intuition of Israelite community. The people are no longer in the process of formation, but have already been formed. The authors look back in gratitude upon the sacred history as the process of divine formation. This community now has an effective will capable of deliberate action for which God will hold it responsible. It has a relative independence over against him. He expects a certain collective behavior of it and will punish it if expectations are not met.

CHAPTER IV

THE ADDRESSEE OF THE LAW I: LAW FOR THE PUBLIC AT LARGE

We have had occasion in the previous chapters to mention that the duties a vassal owed a suzerain are different from the law imposed by a sovereign upon his subjects. In this and the following chapter we shall spell out this difference in greater detail and examine the Biblical collections of law to determine which model is operative.

The method we proposed in chapter one to determine whether Biblical law was formulated on analogy with treaty provisions or as the law of a legal community was to investigate the 'addressee.' The reason for taking this approach is simple: The Covenant was between Yahweh and Israel. If Biblical law was conceived on the analogy of treaty duties, the law would be addressed to the people of Israel *collectively*.[1] By 'addressee,' we mean the party responsible for compliance and subject to sanctions. In personally addressed law, the one responsible for compliance normally coincides with the grammatical addressee, but much law is not personally addressed.

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[1] That is, the law would govern the relations between suzerain (Yahweh) and vassal (Israel), not the internal affairs of the vassal (Israel). Mendenhall, *op. cit.*, pp. 33f, points out that "there is almost no hint of interference in the internal affairs of the vassal state (in the suzerain-vassal treaty). The vassal could rule as he saw fit, and the only concern of the Hittite king was, naturally enough, in the succession to the throne of an heir who would remain faithful."

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If Biblical law was the command of a sovereign imposed on his subjects, it would be addressed to the people distributively.[1] The sovereign of a people attempts to protect the members of society from the aggressions of others and the social order as a whole from violation of its members. The law of a sovereign must also provide for sanctions and composition in case of legal violation.[2] To administer sanctions and settle disputes, the sovereign must establish a judiciary. According to the sovereign-subject model, the members of the judiciary are responsible to the sovereign distributively for their behavior.

An alternative approach would be to compare the content or style of Biblical law to ancient Near Eastern law and to treaty provisions. It has been conceded upon all sides that Biblical law resembles ancient Near Eastern law in content, whereas only superficial analogies have been established between Biblical law and treaty provisions.[3] Stylistically, too, Biblical law corresponds to ancient Near Eastern law and moral instruction, not to treaty provisions.[1]

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[1] That is, the law would govern the relations of each member of the society (Israel) to others and to the sovereign (Yahweh). We have adopted the term 'distributive' to denote law which governs relations between individual members of society. It should not be forgotten that a people, Israel, is addressed in distributive law (see chapter two). The individual is bound to the law because he is a member of the community which acknowledges the sovereignty of Yahweh and his will as law.

[2] By sanctions, we mean retaliation (corporal punishment) or compensatory renumeration imposed by a court on the defeated party. By compensation, we mean a fee exacted of a violator beyond damages to punish the violator for aggressing against another and to compensate the victim for his suffering. By composition, we mean a court settlement between the injured party and the plaintiff which satisfies the claims of the former on the latter.

[3] Cp. Gerstenberger, "Apodiktischen Rechts", pp. 90ff, on apodictic law and treaty provisions.

Nevertheless, it is still held that the law of the covenant corresponds to the provisions of a treaty between a suzerain and vassal. D. N. Freedman has stated the logic of this interpretation in this way:

> While the commandments are addressed to the individual and require individual compliance, it is the community which is answerable to God for the actions of its members.[2]

In order to determine the model of covenant presupposed by the divine law, we must design a means of testing this assertion. We propose: If the community was answerable to God for the actions of its members, we would expect this fact to be expressly stated in law. That is, collective duties must be enunciated in the law. The court and other institutions would be instrumentalities of the community which acted as proxies of the community in the fulfillment of collective vassalhood duties owed to Yahweh. Such duties would include enforcement of the law and the fulfillment of religious duties.[3]

Over against the suzerain-vassal model we wish to raise the possibility that Biblical law is the law of a legal community. Perhaps the study of law will confirm our findings in the examination of classical covenant texts. Perhaps accountability within the covenant was identical with accountability within law. If this is the case,

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[1] _Ibid_.

[2] Freedman, _op_. _cit_., p. 428. Cp. also Mendenhall, _op_. _cit_., p. 5: "The decalog is...the source of community policy in law, and the latter immediately begins to carry out that policy for the simple reason that the community cannot risk bringing upon itself the wrath of the deity because of breach of covenant." Noth, _Exodus_, _in_ _loc_., takes a very similar position.

[3] Cp. Freedman, _ibid_.

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the covenant would be operating with a sovereign-subject model.

Our study is divided according to the types of law. This chapter treats the four types of law addressed to the public at large. The next analyses the regulations of institutions. Each section begins with a description of the syntactical style of the type of law treated, and then surveys the legal traditions in search of the addressee of the law.

Prohibitions and Commandments

Since Albrecht Alt published his study of law, "The Origins of Israelite Law," it has been common to call the prohibitions and commandments "apodictic law."[1] The most common style of apodictic law is the personally addressed prohibition.[2] It is normally formulated with לא followed by an imperfect verb in second person singular.[3] A smaller number have the second person plural.[4] A special type has לא with a third person singular verb.[5] Another style of formulation uses אל followed by a jussive second person imperfect.[6] There are also a number of personally addressed prescriptions.[7]

Apodictic law is normally collected into series of from two to ten laws. There are basically two types of series: comprehensive and

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[1] In *Essays*, pp. 79-132.

[2] So K. Rabast, *Das apodiktische Recht im Deuteronomium und im Heiligkeitsgesetz*. (Berlin: Heimatdienstverlag, 1948), p. 33.

[3] Alt, *op. cit.*, p. 116. Cp. Gerstenberger, "*Apodiktischen Rechts*" pp. 50ff, 70ff. Gerstenberger's statistics: 126 singular to 77 plural.

[4] Gerstenberger, *ibid*.

[5] *Ibid*., pp. 66-69.

[6] *Ibid*., pp. 50ff.

[7] *Ibid*., pp. 43-46.

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concentrated.[1] The comprehensive series attempts to summarize the fundamental prerequisites of the social order.[2] A concentrated series is formulated around one specific topic. The topics of concentrated series run the gamut from serious moral offenses to relatively minor customs and taboos.[3]

The apodictic style of law has a categorical character corresponding more to the absolute demand of 'ought' than to the delicate weighing of factors in legal litigation.[4] There is a tendency toward extreme compactness and forcefulness.[5] Series are united by poetic repetition.[6] Style and content suggest that this type of law belongs to the category of *moral maxims* to guide behavior.[7] Its standpoint is temporally prior to commission or ommission.[8] It is an *act* or state that is addressed,

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[1] Rabast, *op*. *cit*., pp. 22-26, distinguishes three types of series, long summarizing, long concentrating, short concentrating. He regards the long summarizing series as earliest, the others as signs of specialization and secularization. Gerstenberger, "*Apodiktischen Rechts*", pp. 77-88, argues that the short concentrated series is oldest, the long summarizing series the latest. On the basis of our knowledge of the evolution of the capacity of legal abstraction, we would agree with Gerstenberger: see chapter two.

[2] Alt, *op*. *cit*., p. 121, includes Ex. 20:3-17, 21:12-17, 22:18f, Lev. 20:2ff, 24:16, Dt. 27:15ff, in a table of comparison. Lev. 19 could also be included. The subjects range from worship of strange gods and images, abuse of the divine name and the Sabbath, the honor of parents, murder, adultery, unnatural sexual practices, kidnapping, theft, false witness and other violations of court process.

[3] See Rabast, *op*. *cit*., pp. 24-26.

[4] See Alt., *op*. *cit*., pp. 106f, 125.

[5] *Ibid*., pp. 109ff; also Rabast, *op*. *cit*., pp. 33f.

[6] Alt, *ibid*., pp. 111-116; Rabast, *ibid*., pp. 21-26.

[7] Gerstenberger, *op*. *cit*., pp. 61ff, also 110ff.

[8] *Ibid*., pp. 25f.

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proscribed or prescribed.

The Addressee of the Regular Form. Our task is to determine who is addressed in apodictic law. The addressee will be the party responsible for the act proscribed or prescribed in the maxim. In this section we shall determine the addressee of the common forms. Following Gerstenberger, we shall treat the 'religious commandments' separately. We shall also limit ourselves to laws addressed to the public at large. Apodictic laws addressed to officials or persons acting in official capacities shall be analysed in the next chapter.

We shall draw our examples from all of the Biblical collections of law except the Deuteronomic Code. We intend to be exhaustive for the Decalog, Covenant Code, and Yahwist, representative for the Holiness Code. This provides a sufficiently large sampling of the legal tradition for our purpose.

In order to determine the addressee of the apodictic law, we shall survey the acts covered. We propose to divide the acts according to the party toward whom the act is directed: God, the neighbor, acts without victims.

(a) There are a number of acts prohibited by apodictic law in which God is directly or indirectly the injured party. The Decalog prohibits 'taking God's name in vain' (Ex. 20:7) and the Holiness Code proscribes any 'profaning' of his name (Lev. 22:32) and false swearing (Lev. 19:12). The Covenant Code forbids 'reviling' either God or a nasi' of the people (Ex. 22:27).

More often specific religious practices are proscribed. The Covenant Code forbids the building of altars with hewn stone (20:25) or going up on it with steps (20:26). Sacrificial duties are not to be delayed (22:28), no animal that has been killed by beasts shall be eaten (22:30), blood is not to be offered with leavened bread or fat left until morning (23:18) and a kid is not to be boiled in its mother's milk (23:19b). The Holiness Code prohibits eating blood (Lev. 19:26) or eating unclean animals (20:25b). It also forbids the practice of augury or witchcraft (19:26b) and the patronizing of mediums and wizards (19:31) and dedicating one's daughter as a cult prostitute (19:29). Self-mutilation (19:27f) and child sacrifice (18:21) are prohibited.

There are some duties which take the form of apodictic commandments. According to the Covenant Code Israel must build altars and sacrifice to God upon them. (Ex. 20:24). The Sabbath is to be honored (Ex. 20:8ff, 23:12, Lev. 19:30), the first born must be devoted to God (Ex. 22:28b-29; 13:1f, 12f), and the fruit of domestic trees cannot be harvested for three years and its first crop belongs to the sanctuary (Lev. 19:23-25). Duties of this type shall be treated more fully below under institutional law.

The apodictic prohibitions with God as the injured party cover acts in which God would literally be dishonored and religious practices which were 'repugnant' (תועבה) to him. In the first category, God is very much like a member of the community, and in two cases he is memtioned in parallel with the honored men of the community (Ex. 22:27, Lev. 19:32). The prohibition or prescription of religious practices do not portray God as the aggrieved party, or at least not as directly. Certain repetitive acts, i.e., acts which would be performed regularly,

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are forbidden or commanded. In both categories the kind of acts covered would be done by members of the community, either individually or in small groups, but not by Israel acting collectively. Even the rules governing the arrangement of sanctuaries (Ex. 20:24-26) are portrayed as applying again and again to a multiplicity of sanctuaries (Ex. 20:24b).

(b) The neighbor is the aggrieved party in numerous prohibitions. The second table of the decalog (Ex. 20:(12) 13-17) forbids killing, adultery, theft, false witness and 'coveting.' The prohibitions secure one's person, family, and property from aggression. With the third commandment (20:7) all major areas of the legal order are covered.[1] The Holiness Code has similar prohibitions against theft and false dealing (Lev. 19:11), false witness (19:16), aggression against another person (19:17). Business transactions are protected by prohibitions against false weights and measures (Lev. 19:35f).

The Covenant Code protects special members of the community from the aggressions of others: the alien (Ex. 22:20, 23:9), the widow and the orphan (22:21). The Holiness Code protects the same persons (Lev. 19:33f) and the wage-earner (19:13) and forbids pranks played against the blind and the deaf (19:14). In ugarit and Mesopotamia it was the specific task of the king to protect the weaker members of the community.[2]

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[1] Cp. p. 183, n. 2. On the areas of law, cp. Roscoe Pound, An Introduction to the Philosophy of Law, (New Haven: Yale University Press, 1922, 1954), pp. 72ff., 107ff., 133ff.

[2] Beyerlin, "Die Paranese im Bundesbuch," *op. cit.*, p. 22.

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Here and there duties owed one's superiors are put in commandment form. The Decalog and Holiness Code command honor toward one's parents (Ex. 20:12, Lev. 19:3) and Lev. 19:32 prescribes honor toward the elder. Both Lev. 19:32 and Ex. 22:27 parallel honor to the chief members of the community to honor of God.

The prohibitions and commandments of acts toward one neighbors clearly apply to the community distributively. It is an individual or a small group who kills, commits adultery, steals or bears false witness, or oppresses the alien and widow and orphan, or shows honor to his parents.

(c) There are prohibitions of acts which correspond to the modern category, 'crimes without victims.' Adultery (Ex. 20:14, Lev. 18:20, cp. vv. 14-16) is an aggression against one's neighbor. Sexual intercourse with next-of-kin (18:6-18) or other men (18:22) or animals (18:23) is not. Here we are in the sphere of sexual taboo in which there are no victims. The acts are simply repugnant and disgusting to Yahweh. Such acts are indulged in by individuals.

To summarize, we have found that regular apodictic law was addressed distributively to the people of Israel. They are spoken to as potential violators of the social order or as owners of duties to each other and to social institutions. Many of the prohibitions forbid direct aggressions against God or other members of the community. Others prohibit certain repetitive practices in the cultus or in society. These latter belong to the category of religious or secular taboo.[1]

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[1] Most of which could be given a moral rationale.

The apodictic law can be explained quite satisfactorily on the analogy of the commands of a sovereign for his subjects. According to this model the law is imposed upon the members of society to protect the social order.[1] The prohibitions protect the members of society from the aggressions of others and the social order as a whole from the violations of its members.[2] The commandments implement duties within this order. There is no place, on the other hand, for distributively addressed commandments and prohibitions within the suzerain-vassal model of covenant, for treaty stipulations regulate relations between suzerain and vassal but not relations within the vassal state.[3]

The formulation of prohibitions and commandments in the plural does not change the situation in the least.[4] It does indicate that the law was spoken to groups of people, but the acts prohibited and prescribed remain the responsibility of the members of the society severally. The collective addressee would entail acts performed by the entire community.

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[1] Cp. Gerstenberger, "Covenant and Commandment," op. cit., pp. 48f, which however tries to show that such a community could not be the covenant/historical community of Israel.

[2] W. Preiser, "Vergeltung und Sühne im altisralitischen Strafrecht," Festschrift für Eberhard Schmidt zum 70. Gerburtstag, (Göttingen: Vandenhoeck & Ruprecht, 1961), pp. 7-38, argues that only the social order was involved, not aggressions against other persons. He establishes his case that the social order's health was a prime consideration but too many motive clauses appeal to the good of the parties involved to discount aggressions against individuals (p. 19). The two are of equal weight in our opinion: law protects members of community from aggressions of others, social order as a whole from the violations of its members.

[3] Gerstenberger, "Covenant and Commandment," op. cit., p. 47.

[4] Gerstenberger, "Apodiktischen Rechts," pp. 71f, considers the question of individual and community in the light of singular and plural address. He denies a distributive address to the singular, not in favor of a collective address, but in favor of a non-communal setting of the form. We have no time to enter into a discussion with his thesis here: we are starting with the covenant tradition as it stands, not with the origin of the forms. In our opinion, Gerstenberger does not take the covenant tradition as it stands seriously enough, although we agree with his derivation of apodictic law.

The Addressee of the 'Religious Commandments.' The first and second commandments require separate treatment because they constitute partial exceptions to the distributive addressee of apodictic law. The first commandment takes several forms in our literature. The Decalog prohibits the recognition of any other deities besides Yahweh (Ex. 20:3). The Yahwist's commandment forbids the more specific act of worshipping other gods (34:14a). The Covenant Code admonishes the people not to mention the names of any god but Yahweh (Ex. 23:13b). Probably the more specific formulations were intended as exemplary instances of the prohibition against any recognition of any deity besides Yahweh in any way.

The second commandment must be considered here too because it is twice allied with the first (Ex. 20:4, 34:17).[1] The Decalog again has the most general form of the prohibition:

> Do not make for yourselves a graven image, or any likeness...
> (20:4)

Ex. 20:23 and 34:17 forbid the making of 'gods' of precious metals. Lev. 19:4 prohibits 'turning to idols' or 'making molten images.' All of our cases understand the images to be of other deities, unless the word 'gods' is actually equivalent to 'images.'[1]

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[1] Originally it may have been more narrowly understood as having to do with the arrangement of the cultus. Ex. 20:23ff hints at that.

E. Gerstenberger has suggested that the 'religious' commandments should be understood on analogy with provisions of a treaty.[2] They govern the relations between the covenant partners, Yahweh and Israel. Although he does not assert it, this logic would imply that they were addressed to Israel collectively. We would agree with this reasoning to an extent. The community as a whole, collectively, did have to recognize Yahweh's deity in Israel in order for any of the other commandments to be in force. Several covenant texts required explicit popular recognition of Yahweh. Ex. 19:3-8, 24:3-8 have Israel acknowledge his power to command, while the older version of Josh. 24 and the extant version of Dt. 26:17 have Israel acclaim Yahweh as its God as well. The first commandment is a prohibitive formulation of this recognition of Yahweh to protect this exclusive status from violation.

On the other hand, the religious commandments must be understood as equally distributive. Both formal and legal analogy would have seen to that. Formally, the first and second commandments have been drawn up on the analogy of prohibitions governing relations between neighbors, etc.[3] They would have naturally been understood like statements of a similar style. Thus it is that they were collected in series whose other members were distributive. Legal analogy would have been just as influential in the creation and understanding of the commandments. Law holds the culpable accountable. The prohibition corresponds to positive law at least to the extent that it is oriented toward violation, i.e., it forbids breaking the relationship by overt acts. The legal process is organized around the handling of violations. When the first and second commandments are formulated with sanctions, they are distributive (Ex. 22:19, cp. Dt. 27:15).

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[1] We suspect it is, but have no proof. That there could be a question of images of Yahweh, Judg. 17f shows. Zimmerli, "Das sweite Gebot," Gottes Offenbarung, pp. 234ff, among others, considers the commandment to have originally concerned images of Yahweh.

[2] "Apodiktischen Rechts," p. 108. Gerstenberger's basic position is that covenants between Yahweh and Israel would be concerned with religious topics, relations between the partners, and each covenant-making act would have had its own specific purpose and provision: ibid., pp. 105-109.

[3] Gerstenberger, "Covenant and Commandment," op. cit., pp. 47f.

There are theological dimensions to these two prohibitions which are irrelevant to the question of covenant models. Setting these aside, do the prohibitions suit the sovereign-subject or suzerain-vassal model? It was our contention that they were both distributively and collectively addressed. Since formal and legal analogy would have influenced their creation and interpretation substantially, they were certainly addressed distributively. To this extent, they imply the sovereign-subject model of the covenant. It was absolutely necessary for every member of the socio-legal order to recognize one, and only one, locus of sovereignty in the community. Since Yahweh was a deity, the recognition of any other god would undermine the law and society.[1]

There was a collective dimension as well: The entire people were required to recognize Yahweh alone as God in Israel. This dimension can be understood on the basis of either model. According to the

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[1] Likewise a human sovereign: Judg. 8:22f, 1 Sam. 8:7 are indirectly derived the first commandment. Admittedly, this is impossible to prove. Thus, we have not asserted it in the text.

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suzerain-vassal model, the society had a religious duty to recognize only this one God, while according to the sovereign-subject model the people had to recognize a locus of sovereignty as the basis of its communal existence and legal order. The decision between these alternative models depends upon whether the covenant concerned only the religious aspect of the society or covered the relations between men as well. Gerstenberger has opted for the former.[1] We would argue for the latter on the basis that most of our texts connect the covenant with the entire range of law. On this basis, the first and second commandments could be said to stand behind all of the law, for they protect the authority of the law-giver. The violation of these prohibitions would undercut the basis of the legal community. The community had to recognize the sovereignty of Yahweh collectively in order to be a community. In so doing, it made Yahweh's claim to exclusive recognition morally and legally binding upon every member of the community.[2]

The Addressee of the Motive Clauses. By 'motive clauses' we mean those statements which are attached to laws in order to motivate compliance. Since these materials are a part of the earliest legal traditions preserved, they deserve to be included in any discussion of the addressee of law.[1] We can restrict ourselves to motive clauses which have a direct bearing on the question of addressee or suggest a particular model of the covenant.

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[1] Gerstenberger, "Apodiktischen Rechts," pp. 105-109.

[2] We do not claim that the first commandment was actually enforced as law, only that it was formulated as if it were to be. That it was actually enforced is uncertain. The few narratives of enforcement, e.g., Num. 25:1ff, 2 Kg. 10:18ff, have more the character of mass religious purges than normal legal process. There are laws on the books of our own society covering important matters, e.g., adultery, which are seldom enforced.

Let us begin with passages which seek to motivate compliance by promising blessings and threatening punishment, for it is here where the problem of models is directly joined. In Ex. 20:24ff, the law of the altar, the operation of the sanctuary is described in terms of a promise:

> In every place where I cause my name to be remembered
> I shall come to you and bless you. (20:24b)

This promise is significant for our study because it occurs in a legal setting and yet lacks any conditional connection with law. Yahweh's blessing is freely bestowed on his people.

The only other promises of blessing among the motive clauses to apodictic law stand at the other extreme. Both of them occur in the Decalog. Ex. 20:6 promises grace to those who love God and keep his commandments. This promise retains the distributive addressee. Ex. 20:12b, on the other hand, tends toward a collective addressee. The assurance of long life for obedience derives from distributive address,[2] but the distinction between individual and community breaks down when the clause continues 'in the land which Yahweh your God is giving you.'[1]

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[1] B. Gemser, "The Importance of the Motive Clause in Old Testament Law," Congress Volume, Copenhagen ("Supplements to Vetus Testamentum" 1; Leiden: Brill, 1953), pp. 50ff; Beyerlin, "Die Paranese im Bundesbuch," op. cit., pp. 9-28.

[2] It probably derives from wisdom: cp. Lohfink, Hauptgebot, p. 83.

Divine sanctions are threatened for non-compliance with the law in most of our legal collections. Ex. 20:7b says that Yahweh will not ignore the profanation of his name. Yahweh's wrath is in store for anyone who violates the exclusive relationship between Yahweh and his people (Ex. 20:5b). Anyone who afflicts a widow or orphan will be subject to Yahweh's enmity (Ex. 22:22f). Anyone who does not keep on good terms with his neighbor is in danger of becoming guilty (Lev. 19:17). All of these divine sanctions, with the possible exception of Ex. 22:23, apply distributively, in analogy to legal sanctions.[2] In fact, one gets the distinct impression that the divine sanctions were substitutes for legal sanctions.[3]

The one possible exception, Ex. 22:23, is a part of a problematic unit, Ex. 22:20-23. The unit contains two prohibitions,[4] one formulated in the singular (v. 20a), the other in the plural (v. 21). The motive clause of the former is in the plural, whereas the first motive clause (viz., v. 22) of the latter is singular and the second (v. 23) is plural. The plural formulation of v. 23 makes it sound like a communal threat, whatever its original intent. It is improbable that the

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[1] This is one of the more obvious cases of Deuteronomic language in the Decalog: see chapter two.

[2] Cp. also Lev. 19:31, etc.

[3] David Daube, Studies in Biblical Law, (Cambridge: The University Press, 1947), p. 236: "it seems to me that even in the earliest times people relied on God's intervention only in the case of crimes with which they could not possibly deal in any other way."

[4] Neither is perfectly formulated according to apodictic style, but they are personally addressed prohibitions.

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alternation between singular and plural is original, but the original cannot be reconstructed with any certainty. We must simply surmize that this set of prohibitions was intended for the members of the community to govern relations with the dispossessed with whom they came into contact and that divine sanctions were threatened for taking advantage to them.

The same unit preserves a motive clause (v. 20b) referring to communal experience, the alien-status of Israel in the land of Egypt. The same motive clause occurs in 23:9, also plural address attached to a prohibition in the singular, and in Lev. 19:34 and Dt. 15:15, 24:17.[1] The reference intends, evidently, to give the addressee a sense of identification with the alien's plight. It was an ancient and resilient tradition.[2] Although it appeals to collective experience, its purpose is to arouse the individual's sympathy for the alien so that he will not take advantage of him.[3] Thus, its purpose is distributive.

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[1] These others have 'alien' or 'slave' in the singular, collective to be sure, but more appropriate to the distributive context.

[2] It is not the same as Ex. 20:2, which is theophanic and mentions God's act of deliverance. In the legal tradition, only D uses this form of motive clause. E.g., Dt. 13:6, 11 are nearly identical with Ex. 20:2, but without the theophanic element.

[3] The law itself is, of course, dealing with collectives, classes and castes, and their relations, particularly the aliens as a group. The addressee is a member of a dominant group in society, like a white in American society, and he is commanded to treat a member of another group, like a black in American society, in a certain way. In legal relations, nevertheless, individuals are responsible for their own behavior toward members of another class or caste. By referring to the orphan and widow along with the alien, the collective framework is weakened. By analogy, the alien has simply categorized among the disinherited, not set apart as a separate collective.

With one exception from the Decalog (Ex. 20:12b) and a problematic passage in the Covenant Code (Ex. 22:23), the paranesis attached to apodictic law retains the distributive address of the sovereign-subject model. The law is the will of a sovereign for his subjects and the sovereign promises to support the law with sanctions.[1] Other types of paranesis fit the same model. When the divine law-giver repeats the theophanic self-asseveration, 'I am Yahweh (your God),' at the end of legal units in the Holiness Code, he is establishing the authority of the law. Because Yahweh is sovereign, his commands are binding. When the self-asseveration is expanded to include 'am holy' (Lev. 19:2, etc.), the sovereign's nature becomes the norm of community life. Yahweh's jealousy explains the prohibition of worshipping or recognizing rival deities (Ex. 34:14b, 20:5b). He claims sovereign rights in Israel.

In the Covenant Code, it is the holy nature of the people, echoing Ex. 19:6a, which sets the tone of life according to Ex. 22:30. Here the motive clause explains why a specific eating prohibition is in force. In the Holiness Code, one law (Lev. 19:29) explains a prohibition by describing the adverse effect the prohibited practice would have upon the people. The law protects the land from becoming filled with promiscuity and immorality.

The Addressee of Deuteronomic Prohibitions and Commandments. The laws of the Deuteronomic Code are addressed to a 'thou' and it is our

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[1] When God acts as administrator of divine sanctions, Biblical literature gives him, at least here and there, the title of 'judge': e.g., Gen. 18:25. By 'divine sovereignty,' we mean law-giver and judge.

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task to determine who this 'thou' is in each law. In this section we shall analyze those laws which are formulated in apodictic style. The Deuteronomic law has been set apart for special treatment because our study of covenant texts led us to expect a revision of the law. Since the introductory paranesis employed the suzerainty-vassal model, we would expect that the Deuteronomic law would be formulated on analogy with 'treaty stipulations,' viz., as duties the people of Israel owe Yahweh.

The following table lists the apodictic prohibitions and commandments of the Deuteronomic Code, Biblical parallels and addressee:

Topic	Addressee	Parallels
Religio-magical practices (18:9-11)	collective	Ex. 22:17, Lev. 18:21, 19:26, 19:31, 20:2-6, 27.
Canaanite practices (12:29-31)	collective	Lev. 18:24-30, 20:1-5, 20:23f
Sacral prostitution (23:18f)	collective	Lev. 19:29
Membership in Israel (23:2-8)	impers/coll.	
Self-mutilation for the dead (14:1f)	mass member	Lev. 19:28
Marriage of father's wife (23:1)	impersonal	Lev. 18:6
Asherah and maṣṣebah (16:21f)	distributive	Lev. 26:1
Blemish sacrificial animals (17:1)	distributive	Lev. 22:17-24
Unclean animals (14:3)	distributive	Lev. 11:2ff, 20:25
Eating carcass (14:21a)	distributive	Lev. 17:15, 11:40, Ex. 22:30
Boiling kid in mother's milk (14:21b)	distributive	Ex. 23:19b, 34:26b
Eating blood (12:16, 23f)	distributive	Lev. 17:10-14, 19:26
Moving property marker (19:14)	distributive	Prov. 22:28
Interchange of apparel (22:5)	distributive	
Unnatural mixtures (22:9-11)	distributive	
Muzzling threshing ox (24:4)	distributive	
Alien, widow, orphan (24:17)	distributive	Ex. 22:20f, 23:9
Weights and measures (25:13-16)	distributive	Lev. 19:35f.

The most significant examples for our study are those which address

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the people collectively. Dt. 18:9-11 contain a series of prohibited religio-magical practices: child sacrifice, divination, soothsaying, augury, sorcery, charming, communication with the dead, conjury, and necromancy.[1] The regular form of apodictic law would address the people as potential practioners or perhaps patrons of these arts.[2] The Biblical parallels are formulated in that way (*viz.*, Lev. 19:26, 31). The author of Deuteronomy has reformulated the series to address the community collectively: 'There shall not be found among you anyone who...' The people have the collective duty to curb and repress such practices and professions.

The warning against adopting the religious practices of the previous inhabitants is paranesis rather than law.[3] The one concrete example, also mentioned in Dt. 18:10, is the subject of a מות יומת law in Lev. 20:1-5. The pericope as a whole is collectively addressed, warning Israel against following the practices of the previous inhabitants.

Dt. 23:18f begins a series prohibiting sacral prostitution collectively: 'There shall be no...from the daughters/sons of Israel.' The people are commanded not to adopt a certain practice. V. 19 reverts to the regular form, addressing potential aggressors.

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[1] Child sacrifice, or whatever exactly is meant by 'walking through fire,' probably does not belong with the other practices. The others all involved professional technique.

[2] Lev. 19:31 addresses the potential patrons of these arts. This may be a secondary formation.

[3] Cp. Ex. 23:24, 34:12, 15f; but the subject is not quite the same: apostasy rather than adoption of practices.

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Dt. 23:2-9 contain a list of exclusions and admissions to the קהל יהוה. At one time this series probably belonged to the cultus, the community assembled before Yahweh.[1] The exclusions (vv. 2-4) are formulated impersonally and are thus distributive law. The admissions (v. 8) are addressed personally. The 'thou' here seems to be the people, for the prohibition of 'abhoring' has an official force of allowing the third generation into the assembly (v. 9). The motive clauses to the exclusions of Ammonites and Moabites and inclusion of Edomites and Egyptians are personally addressed to the people and refer to communal experiences. G. von Rad has made the plausible suggestion that the series was intended by Deuteronomy to define the limits of communal membership.[2] Thus, the series is not so much a collective duty as a communal profile. However, the exclusion of, and indeed emnity toward, the Ammonites and Moabites was a serious duty imposed upon Israel (cp. Dt. 25:17-19).

The prohibition of self-mutilation is normal apodictic law, addressing potential aggressors, in plural address. The plural is a departure from Deuteronomic style. Perhaps this indicates that it is foreign material. It is surrounded by motive clauses which describe the peculiar nature of the people of Israel in order to achieve at least

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[1] Identified by von Rad, Studies in Deuteronomy., p. 20. Regarding the impersonal style, cp. Gerstenberger, "Apodiktischen Rechts," pp. 66-70. Although the term קהל became generalized for 'people,' the use of the term in phrases like 'I will praise thee in the midst of the congregation' (Ps. 22:23) establishes it as an originally cultic designation.

[2] von Rad, ibid., p. 59.

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a partial collectivization.

Of the other prohibitions and commandments, two are formulated impersonally and the remainder retain the regular distributive addressee. It is possible that Dt. 23:1 was incorporated to explain the term ממזר ('bastard') in 23:3.[1] Its impersonal style would thus be explained by its definitional purpose. Dt. 22:5 covers two different addressees, a man and a woman, so it would be difficult to formulate it personally.

The prohibitions against having an *asherah* or *maṣṣebah* beside Yahweh's altar, against sacrificing blemished animals, against eating unclean animals, carcasses, or meat with blood, and against boiling a kid in its mother's milk belong to the sphere of the cultus. The altar laws (16:21-17:1), which address the persons responsible for arranging and officiating over the worship of Yahweh, are unassimilated in Deuteronomy and probably represent an intrusion.[2] The eating prohibitions addressed to the laity who were now, with the centralization of the sanctuary, on their own in such matters.[3]

The prohibition against moving a boundary marker addresses the peasant farmer, as does the prohibition against muzzling an ox which is treading out the grain. The prohibition against unnatural mixtures addresses in turn a farmer who might sow a vineyard with two varieties or yoke an ass and ox together, and a weaver who might combine wool and linen and anyone who might wear such a fabric. The command to wear tassals would concern every Israelite male. The prohibition against exploiting or afflicting the alien, orphan and widow falls upon the members of the legal and economic community who act as judges and lenders. The prohibitions against false weights and measures, and corresponding commandments, applies to merchants.[1]

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[1] Suggested by Klostermann, *op. cit.*, p. 304.

[2] Dt. 16:21-17:1 interrupt the law of the court and have been subjected to little Deuteronomic paranetic expansion. It is our thought that these verses are an old series which was incorporated into Deuteronomy by Dtr., who was concerned with the erection of *masseboth* and *'asheroth* later in his history: 1 Kg. 14:23, 2 Kg. 17:10, 18:4, 23:14.

[3] That is, when all slaughter of domestic animals took place at the local altar, a priest would have made sure that the animal was properly bled. With the introduction of 'secular' slaughter, no priest would be watching over the process. Undoubtedly the layman knew that he was expected to bleed the animal, so the repeated command to do so, or rather prohibition against eating blood, was to impress upon him the seriousness of the issue.

If we were judging by the statistics alone, we would have to admit that the apodictic law of Deuteronomy has not been revised significantly. The large majority of prohibitions and commandments continue to address the community distributively. However, the few deviations are more important than their statistical percentage would suggest because they represent a new departure in Biblical law. Collective duties have been imposed upon the people of Israel. In these deviations the suzerainty-vassal model most probably is at work.

The Deuteronomic Motive Clauses to Apodictic Law. We would expect the author of Deuteronomy to address paranesis to the same party as the law to which it is attached. We shall survey the material to determine

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[1] Rabast, *op. cit.*, p. 25, characterizes the pericope as an exemplar for the merchant. It has been linked with wisdom by Weinfeld, "The Origins of Humanism in Deuteronomy," *JBL* LXXX, (1961), p. 243; Gerstenberger, "*Apodiktischen Rechts*," pp. 34f. Cp. Prov. 20:10, Amen-em-Opet 16.

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if this is borne out. We shall also search for other indications of the covenant model.

The prohibition of religio-magical practices (18:9-11) is encompassed by motive clauses and admonitions. It begins with a temporal clause referring to the occupation of Canaan:

> When you come into the land which Yahweh your God gives you...

Although this does not collectivize the law, it does give it a communal setting. Dt. 19:14 also has this temporal clause, but further specifies 'into your inheritance in the land...,' indicating that an individual is being addressed.

Following the temporal clause, 18:9 has a general admonition:

> You shall not learn to follow the abominable practices of those nations.

The dispossession of the previous inhabitants is explained as due to their practice of the forbidden acts (v. 12b, cp. v. 14a). Israel is not allowed to imitate them (v. 14b), but rather must be 'blameless before Yahweh' (v. 13). Throughout this paranesis the prohibition is understood as a collective duty. The previous inhabitants have suffered divine judgment for collective practice. The train of thought is cultural rather than legal, for there is no reason that the previous inhabitants would have considered their practice violation of law. Since Israel possesses the prohibition, it can avoid their fate.

We do hear an echo of distributive law in the statement:

> Whoever does these things is an abomination to Yahweh (v. 12a).

Although we encounter the word 'abomination' (תועבה) three times in this one unit, only here is it said to be 'an abomination to Yahweh.'

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This phrase is something of a terminus technicus in Deuteronomy. It applies to acts, persons or things which are incompatible with Yahwism.[1] It applies distributively. We find the same phrase describing sacred prostitution (23:19), the sacrifice of a blemished animal (17:1), the person who wears the clothing appropriate to the opposite sex (22:5), and dishonest businessmen (25:16). An unclean animal is also called an abomination (14:3). The phrase 'that Yahweh hates' (16:22, cp. 12:31) is similar.[2]

Dt. 12:29-31 begins with a temporal clause describing the occupation of Canaan (v. 29) and another temporal clause stressing the annihilation of its inhabitants (v. 30b). The warning includes a citation of Israel and a negation (vv. 30c, 31a). The Israelites are not to imitate the previous inhabitants,

> for every abominable thing which Yahweh hates
> they have done for their gods. (v. 31)

The entire people are portrayed as considering what religious practices it should adopt and are warned against taking the natural route of imitation.[3]

Dt. 23:5-7 explain the exclusions of an Ammonite and a Moabite on the basis of hostility toward Israel when it passed through their lands. The explanation ends with an exhortation against friendly relations at any time. On the other hand, an Edomite is a brother and an Egyptian was once a host (v. 8).

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[1] Stylistically this motive clause is very similar to a determination, a speech form of priestly torah: see below.

[2] It is not our purpose to enter into a long discussion of the origin or exact meaning of these phrases.

[3] Except for the slightly distributive note in v. 30: 'that I should do likewise.' Here we have the collectivization of language appropriate to an individual.

The prohibitions of self-mutilation (14:1b) and of eating animals that have died of natural causes (14:21a) appeal to the community's nature to explain why the practices are forbidden. Both repeat the part of the election declaration which terms Israel a 'holy people to Yahweh.'[1] Dt. 14:1a also calls Israel 'sons to Yahweh' to stress its uniqueness and closeness to God. We found similar motive clauses in the older legal tradition attached to distributive prohibitions.

Dt. 12:25 assures the people of Israel that compliance with the prohibition against eating meat with blood will make things 'go well' for it. This collective assurance attached to a distributive prohibition is somewhat awkward. It is made more awkward by the admonitory formula, 'do the upright thing in the eyes of Yahweh,' attached conditionally to the end.

Dt. 22:9 threatens a quasi-legal sanction against one who mixes two types of grapes in his vineyard. This is the only sanction mentioned in the motive clauses attached to apodictic law in Deuteronomy.

The prohibition against mistreating the alien, widow and orphan (24:17) has a motive clause referring to Israel's slave-status in Egypt. The same reference was found in Biblical parallels (Ex. 22:20ff, 23:9, Lev. 19:34; cp. Dt. 15:15). However, the author of Deuteronomy has replaced 'alien' (גר) with 'slave' (עבד). This

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[1] Dt. 14:2 also has am segolah, but it serves no paranetic purpose.

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is unusual in 24:17, for the prohibition does not mention a slave.[1] Perhaps it is connected with the other unusual feature of this motive clause: It proceeds to recall Yahweh's redemption from Egypt and concludes:

> Therefore I command you to do this.

This motive clause has a different effect upon the addressee than its parallels. It is no longer aimed primarily at gaining sympathy for the alien. By recalling Yahweh's redemption, the author seeks to establish Yahweh's authority to make demands. Israel is expected to respond to Yahweh's deliverance by obeying his will. This is the same line of thought which we found in the introductory paranesis, a line of thought, moreover, which suggested to us there the suzerain-vassal model. It corresponds at an intellectual level to the collectivization of law and paranesis which we have observed.

Law with the Death Penalty

Albrecht Alt, in the above mentioned study, included a species of law under the category of apodictic law which differs significantly from the personally addressed prohibitions and commandments.[2] Its style is impersonal, consisting of a participial phrase describing the offender and a catchword, מות יומת, 'he shall be put to death,' sentencing him. Although some scholars consider the catchword to be a curse formula,[3] probably a majority regard it as a legal sanction.[1] The מות יומת laws describe cases of legal violation and posit the sanction, *viz*., the death penalty.[2]

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[1] Dt. 15:15 does.

[2] Alt, *op. cit.*, pp. 109ff.

[3] H. Reventlow, "Sein Blut komme über sein Haupt", *VT*, 10 (1960), pp. 316f.

The מות יומת laws do have some of the features of apodictic law. They are stylistically compact and pregnantly formulated.[3] They form a unitary syntactical utterance.[4] They normally occur in series with several members.[5] Some are so general and unqualified that it is doubtful that they were useful in legal litigation without further elaboration.[6]

There is no reason, however, to believe that מות יומת law functioned as a form of apodictic law, for its impersonal style militates against it. Moreover, there is no paranesis attached to it in the Covenant Code, whereas the apodictic law does have it.

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[1] Gerstenberger, "*Apodiktischen Rechts*," pp. 25f; H. J. Boecker, *Redeformen des Rechtslebens im Alten Testament*, ("Wissenschaftliche Monographien zum Alten und Neuen Testament", 14, Neukirken: Neukirchener Verlag des Erziehungsvereins, 1964), pp. 143-146.

[2] Boecker, *ibid*., derives the usage from the oral announcement of the sentence concluding a trial. Gerstenberger, *ibid*., believes that the participial style is quite 'primitive,' the oral proto-type of casuistic law.

[3] Rabast, *op*. *cit*., pp. 5f and *passim*.

[4] Observe that the real subject of the apodosis is the participle of the protasis, almost as if the act itself were being sentenced: cp. Alt, *op*. *cit*., p. 109. The participle does not postulate an act in the strong sense of casuistic law, which takes the perfect: see R.A.F. MacKenzie, "The Formal Aspect of Ancient Near Eastern Law", *The Seed of Wisdom*, ed. W. S. McCullough (Toronto: University of Toronto Press, 1964), p. 34f.

[5] Cp. Alt, *ibid*., p. 121 and *passim*.

[6] This is especially true of the law governing killing. Ex. 21:12 had to be expanded by vv. 13f. But the field covered had to be elaborated much further yet: 21:18-36.

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The unique features of the impersonal participial style are due, according to E. Gerstenberger, to the 'primitive' character of this species of law.[1] Gerstenberger suggests that it is the oral prototype of casuistic law.[2] We believe that it was preserved in later law because of its categorical style and simplicity. The field, in cases like killing, was elaborated casuistically to supplement the law. In other cases a מות יומת law remained sufficient to cover its field.[3]

The Regular Form. The term 'addressee' is somewhat inappropriate for impersonal legal sentences. Here we shall investigate who the party is whose act is governed by the legal formulation. Our task is to determine the party who would be responsible for the act which in this case is put under sanction.

The מות יומת species of law is preserved, outside of Deuteronomy, in the Covenant Code, the Holiness Code and Priestly Law. We shall be exhaustive for the Covenant and Holiness Codes. Again we shall survey the acts governed by this species of law. We can divide our study according to the party toward whom the act is directed, as we did in the previous section.

(a) God is the injured party in several of the מות יומת laws. In the Covenant Code, the first commandment is formulated as such an offense:

> Whoever sacrifices to any god, save to Yahweh alone, shall be utterly destroyed. (Ex. 22:19)

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[1] "Apodiktischen Rechts," p. 24. [2] Ibid.

[3] For example, dishonor of parents, religio-magical practices, sacrificing to other gods, blasphemy.

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As the law stands, the catchword has been replaced. The participial protasis is all that remains of the original style. The fact that it is a member of a series (Ex. 22:17-19) also supports the identification as a מות יומת law. We follow Alt in reconstructing the original as:[1]

זבח לאלהים אחרים מות יומת

Whoever sacrifices to other gods shall be put to death.

In the Holiness Code, the sacrifice of children to Molech (Lev. 20:2) and blasphemy (Lev. 24:16) are covered by this species of law. The style of each has been modified somewhat, but the apodosis is preserved in both.

Both of the Codes contain מות יומת law covering religio-magical practices. Here we have a point of contact with ancient Near Eastern codes, where such practices are treated as civil crimes.[2] The Covenant Code example runs:

מכשפה לא תחיה

Whoever (fem.) mutters incantations 'shall not live.'[3] (Ex. 22:17)

Again the style has been preserved only in the protasis. However, the apodosis may be a by-form, given the parallel in Gen. 31:32. Lev. 20:27 reads:

A man or woman who is a medium or wizard shall be put to death.

The protasis has broken down, but the original form shows through.

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[1] *Op. cit.*, p. 112, n. 73.

[2] CH 2, MA A, 47. Given the religio-legal character of the covenant, magical practices probably were religious as well as civil offenses in Israel.

[3] We follow Daube's suggested repointing of תחיה as a Qal: *Studies*, p. 307, n. 43. Our formal suggestion and parallel are based upon his observations. Ex. 22:17, in its present pointing, is the one example of a duty of enforcement imposed upon the court/people in the Covenant Code.

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The Priestly writer has preserved a מות יומת law covering working on the Sabbath (Ex. 31:15). This is the only religious duty so sanctioned (cp. Ex. 19:12).

The kinds of acts governed by this species of law would be done by individuals and the death penalty was exacted of individuals. Because of the severity of punishment, only the more serious religious offenses could be formulated as מות יומת laws.

(b) A substantial portion of the examples of this species of law cover aggressions against persons. The Covenant Code puts two aggressions against parents under the death penalty:

> Whoever strikes his father or mother shall be put to death (21:15)
> Whoever strikes his father or mother shall be put to death (21:17)

The second of these is preserved in Lev. 20:9. Aggressions against one's neighbor are likewise formulated in this style:

> Whoever strikes a man and he dies shall be put to death. (21:12)
> Whoever steals a man and sells him (...) shall be put to death. (21:16)

Killing is also put under the death penalty in the Holiness Code (Lev. 24:17, 21). H also puts adultery under the death penalty (Lev. 20:10). Lev. 27:29 sentences anyone under the herem to death.

Theft was not a crime punishable by death in Israelite law. The Code of Hammurabi (Par. 7, 9, 10, 22, 25) does put some types of theft under the death penalty. There may be an echo of such a practice in Ex. 22:1-2a. If a thief is killed breaking in at night, the killing is justified. In the daytime it is not. Daube suggests that "the very fact that you are allowed to kill a (thief caught in the act) appears

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to be remnant of an era when the crime of theft was capital."[1]

Again it is clear from the nature of the acts and the kind of penalty exacted that the מות יומת laws govern acts of individuals toward other members of the community.

(c) Crimes without victims are formulated as מות יומת laws in both Codes. In the Covenant Code we have:

> Whoever lies with a beast shall be put to death. (Ex. 22:18)

The same offense is covered in Lev. 20:15f. The Holiness Code also covers acts of sexual intercourse between next-of-kin (Lev. 20:11ff), some of which are put under the death penalty.

To summarize, we have found that the acts governed by מות יומת law belong to individuals, to members of the legal community. This finding corresponds to the results of our examination of prohibitions and commandments. The מות יומת law belongs to a legal community which imposes penalties on violators of its order. Retaliation in ancient and modern law is considered a means of preserving and restoring the social order from violations.[2] Yahweh promulgates this law as sovereign. Only a sovereign has authority to impose law with sanctions upon a community.

Legal Supplements to מות יומת Law. Since מות יומת is formulated impersonally, it discourages motive clauses. Motive clauses are intended to motivate the party address in law to comply. It is thus peculiarly adaptable to apodictic law, but has no place in impersonal law setting forth the sanctions for various violations. In the Holiness Code we occasionally encounter a determination (e.g., Lev. 20:13a) a guilt-imputation formula (e.g., Lev. 20:13b), or a description of how the penalty is to be exacted (e.g., 20:27b).[1] All of these are impersonally formulated.[2]

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[1] *Ibid*., p. 101, n. 30. He adduces Ex. 20:15//Dt. 5:17, and 2 Sam. 12:5 to support his contention that "There are certain traces in the O.T. indicating that at least certain kinds of theft...but more probably all kinds were at some time punishable by death"(p. 94). cp. also p. 241 of *ibid*.

[2] Cp. Daube's interesting discussion, *ibid*., pp. 102ff.

Ex. 21:12 has been expanded by vv. 13f to explain the operation of the law. In imitation of casuistic style, the explanation distinguishes between accidental and premeditated homicide and the way each is to be handled:

> When he did not lie in wait, but God let him fall into his hand, I will set up a place for you to which he may flee. (v. 13)
>
> But if a man plotted in anger against his companion to kill him cunningly, you shall take him from my altar, to die. (v. 14)

The apodosis of these explanations are personally addressed. The speaker is Yahweh, the addressee the people of Israel. The place of asylum is given to the entire people. In v. 14, the people are given the responsibility of removing the murderer from the sanctuary. This command is not a consciously imposed duty, but rather a description of the procedure for handling the case. If Yahweh establishes sanctuary for the protection of the innocent, there must be a procedure to keep the guilty from using it. The legal process for deciding to whom sanctuary is refused is not described.

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[1] Lev. 20:6, 17-21 may moderate the penalty.

[2] Parts of Lev. 20:15, 16 are addressed to the people/court, exactly as we find in Deuteronomy. These are quite marginal within the Holiness Code, however, and introduce confusion in our discussion to treat them here. Lev. 20:14 has a collectively addressed motive clause, the only example we find in H. We shall treat these verses below, on the court.

The only material attached to מות יומת laws can be called legal supplements which explain the character of the crime or application of the penalty. Ex. 21:13f goes somewhat further to distinguish between cases which do not and do fall under the law and to describe the institution which protects the innocent but not the guilty. It addresses the legal community. God himself has set up a procedure for protecting the innocent yet not letting the guilty avoid their punishment. The model operative in these legal supplements to law with the death penalty is that of a sovereign who concerns himself with the administration of justice.

The Deuteronomic מות יומת Laws. The introduction to the Deuteronomic Code (Dt. 6-11) has led us to expect a modelling of the law on the provisions of a suzerain-vassal treaty. Specifically, this would involve imposing duties upon the people of Israel regarded collectively. In our study of Deuteronomy's apodictic law, we found several examples of collectivization, i.e., law which once addressed the members of the community distributively reformulated to address the collectivity. In this section we have the task of determining whether the מות יומת law continues to govern acts of individuals or has been reformulated as collective duties.

The following table lists the מות יומת laws to be found in the Deuteronomic Code, their Biblical parallels, and the addressee of each:

Topic	Addressee	Parallels
First commandment (13:2-6, 7-12, 13-18, 17:2-7)	pers.-coll.	Ex. 22:19
Killing (19:1-13)	impers/pers-coll.	Ex. 21:12-14, Lev. 24:17, 21, Num. 35:9-34.
Rebel. Son (21:18-21)	impers-parents	Ex. 21:15, 17, Lev. 20:9
Adultery (22:22)	impers-coll.	Lev. 20:10
Man-stealing (24:7)	impers-coll.	Ex. 21:16

We will need to justify categorizing the Deuteronomic passages as מות יומת laws before we analyse the addressee.

(a) None of the examples listed preserve the original form of מות יומת law. Some have not departed from the form a great deal. Dt. 22:22 and 24:7 have deviated least. The participial clause still forms the basis of the protasis, and the catchword מות יומת is echoed in the ומת(ו) of the apodosis. Dt. 21:18-21 has been expanded to describe the offense and the procedure for dealing with the case. Nevertheless, the participial clause still forms the basis of the protasis, and ומת concludes the apodosis. The description of the means of execution (stoning) was a common supplement to the מות יומת laws of the Holiness Code.

There is no actual law governing killing in Deuteronomy. All that is treated is the institutional structure and procedure for handling cases of killing. Dt. 19:1-13 is an expansion of Ex. 21:13f, but does not retain the מות יומת law of Ex. 21:12 which vv. 13f explain. Aside from the illustration in vv. 5f, the expansion concerns the cities of asylum (vv. 1-3, 7-9). This description is drawn from independent geographical-institutional traditions (cp. Num. 35, Josh. 20).[1]

The four provisions governing the worshipping of foreign gods (Dt. 13:2-6, 7-12, 13-18, 17:2-7) have perhaps wandered furthest from the original form. The following table exhibits their structure:

Element	13:2-6	13:7-12	13:13-18	17:2-7
Description of the case	2-3	7-8	13-14	2-3
Command to the community	4-5	9a/9b	15	4
Stipulation of sanction	6a	9b-11a	16-18a	5 (6-7a)
Motive clauses	6b	11b-12	18b (19)	7b

The description of the case corresponds to the participial protasis and the sanction corresponds to the apodosis. The catchword מות יומת is preserved in יומת in 13:6a, להמיתי in 13:10b, ומת in 13:11a, and ומת in 17:5b. Stoning is explicitly mentioned twice as the mode of punishment (13:11b, 17:5b). Because of the unusual case covered in 13:13-18, holy war terminology (*viz*., החרם...לפי חרב, הכֹה תכה.. לפי.) has replaced judicial in the description of punishment. Only 17:2-7 approximates Ex. 22:19 closely in type of offense. All are paranetic illustrations of how apostasy should be resisted and fought. In two (13:2-6, 7-12) the addressee has encountered someone advocating apostasy, while the others involve investigating reports of apostasy

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[1] Not very legal or specific, narrative-like. Vv. 8-9 are general admonition conditionally related to the fulfilment of the promise of land. It is entirely unnecessary except for the need of 3 more cities of asylum, and even that may be more related to Deuteronomistic theory and its view of history. In any case, we have our doubts about their authenticity. - It should be noted that v. 12 gives us a closer glimpse at how 'removal from my altar' proceeded.

(13:13f, 17:4). Nevertheless, all indications are that they derived from Ex. 22:19 or a similar provision.[1]

(b) Now we can proceed to the analysis of addressee. Dt. 22:22 and 24:7, the two examples closest to the original form, are formulated impersonally. To this extent they retain the character of their origins. However, each begins:

> If a man be found who (participle)... ... כי ימצא איש

This phrase adds nothing to the legal force of the law, for finding is presumed in all law. What the clause does do is re-orient the law toward the community. The community is the implied finder.

Dt. 21:18-21 is formulated from the point of view of the parents. It begins:

> If a man has...

And describes the procedure thus:

> his father and his mother shall take hold of him, and bring him out to the elders..., and they shall say...

We believe that the parents are intended to represent the interests of the community. In the older traditions the parents and elders were presented in parallel with God. It would not be implausible for them to come to embody the authority structure of the community.[2]

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[1] This can be arrived at from a process of elimination as well. The structure of these 'paranetic laws' (von Rad) is basically the same as remedial law, a protasis describing the case and an apodosis describing the penalty. There is no casuistic law governing religious defection in Biblical literature, so the proto-type must be the other form of remedial law, מות יומת law.

[2] The court procedure may be 'communalizing' in the legal sense: Ludwig Köhler, "Justice in the Gate," Hebrew Man, (London: SCM Press, 1956), p. 164 n, asserts that prior to Deuteronomy the parents would simply execute the son on their own, and that Deuteronomy brought the matter under the jurisdiction of the court. The assertion is somewhat

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Dt. 19:1-13 is divided with regard to address style. The description of the cities of asylum (vv. 1-3, 7-10) is personally addressed to the community. The community is responsible for establishing and maintaining the cities of asylum and the roads to them. This corresponds to Num. 35 and Josh. 20. It cannot be, strictly speaking, called a collective duty, but it tends in that direction, especially when one compares the passage to Ex. 21:13, where Yahweh himself establishes the asylum.

Dt. 19:4-6, 11-13 are formulated impersonally, closer to the technical legal style than Ex. 21:13f. However, it has been modified decisively toward a collective duty. The law imposing the death penalty on murder has been absorbed into rules governing the institutional handling of the case. The law is concerned exclusively with the community's maintenance of law and justice through its courts. As we shall see, the motive clauses underline the collective orientation of this, and our other, law.

The laws on apostasy (Dt. 13:2-18, 17:2-7) are addressed to a 'thou.' The addressee is a lay member of the people of Israel. Although he is an individual, he is a 'representative Israelite' and hence has collective responsibilities as well. In the case described in 13:2-6, the addressee witnesses an advocacy of apostasy by a prophet or dreamer (vv. 2f). He is warned not to follow him (vv. 4f). As a member of the people's judicial system, the addressee should have the

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plausible because the court really does not decide the case in Deuteronomy: it performs a consultative and conciliatory function, but the parents are not required to prove their case. However, the whole question of self-help in Israelite law remains a guess.

advocate of apostasy put to death (v. 6).[1] When a member of the addressee's family advocates apostasy (vv. 7-8), he should not follow him or tolerate his defection (v. 9), but, as a member of the legal community, initiate his execution (vv. 10-11a).

Dt. 13:13-18 and 17:2-7 address our representative Israelite entirely in his capacity as a member of the legal community. In 13:13-18, the addressee hears the report of the defection of a town (vv. 13-14) As a loyal Israelite and guardian of its order, he is told to investigate the report (v. 15). As a part of a militia unit he must utterly destroy the apostate city (vv. 16-18a). Although the means of execution derives from holy war, it is the law which is enforced. The motive clause suggests that the execution will turn aside the divine wrath which threatens the people (v. 18b). In the case described in 17:2-7, an individual has defected to foreign gods and 'broken the covenant' (vv. 2-3).[2] Although the case is formulated as if the party had already been found in the act, 17:4 commands the addressee to investigate the case as a member of the court. As a member of the court he shall participate in the execution (v. 5).

To summarize, all of the מות יומת laws in Deuteronomy have been collectivized to a greater or lesser degree. All of them are formulated from the viewpoint of the community, or its representatives. The orientation is the community's maintenance of the religious and legal order as laid down in the law. The law has become a duty of the people,

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[1] The apodosis is not personally addressed except in the motive clause.

[2] Note the beginning: 'If there is found among you...' cp. 22:22, 24:7.

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enforcement for its protection. The model of covenant operative here is that of a suzerain-vassal relationship in which the vassal owes duties to a suzerain.

The Motive Clauses Attached to Deuteronomic מות יומת Law. In the classical legal traditions, this species of law did not receive motive clauses. Deuteronomy differs from these traditions. If it has collectivized these laws, as we maintained in the foregoing analysis, it could motivate the addressee, the people of Israel collectively, to enforce them. Let us inspect the examples to confirm our analysis.

The following table lists the laws and the motive clauses attached to them:

Law	Purge	Deter	Prevent	Assure	History	-Pity
1st Commandment						
13:2-6	x				x	
13:7-12		x			x	x
13:13-18			x			
17:2-7	x				x	
Killing (19:1-13)	x		x	x		x
Rebel. son (21:18-21)	x	x				
Adultery (22:22)	x					
Enslavement (24:7)	x					

The most common motive clause, the purge formula, runs:

> And you shall purge the evil from your midst/the midst of Israel.

The 'you' in this formula is the people of Israel. The theory of the purpose of the law operative in Deuteronomy is *expiatory*.[1] That is, every evil act transfers guilt to the entire community and threatens to bring down divine wrath on it. The guilt can be 'atoned for' and wrath averted by executing the guilty and not executing the innocent.

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[1] See Preiser, *op. cit.*, pp. 19ff.

Purging the perpetrator is a duty the people owe their God. In 19:13, an assurance of continuing well being is attached to the purge formula, articulating an assumption left implicit elsewhere that purging evil is an act of maintaining the covenant. In 19:10, saving an innocent man's life from blood vengeance is put into the same category as purging the community of evil. The annihilation of an apostate city will prevent communal judgment (13:18).

The enforcement of sanctions against offenders will also deter repetitions:

> And all Israel will hear, and fear, and never again do any such wickedness as this among you. (13:12)

The threat of punishment will keep others from repeating the act and thus the community will receive further protection. Each execution is a lesson to the people.

The command 'not to pity' has the purpose of keeping the court, and an individual in 13:9, from relaxing the enforcement of the law. The sanctions prescribed by the law must be strictly adhered to. The community/court is addressed here as a body capable of making decisions and hence of violating the provisions of the law. Hence, this prohibition protects the law from the violation of the collectivity or its representative through laxity of enforcement.[1]

The paranetic laws treating apostasy have some motive clauses distinctive to them. Dt. 13:6b and 11b explain the sentence by:

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[1] The prohibition of pity is also found in the introductory paranesis 7:16, where it supports the command to exterminate the Canaanites. The militia must abide by the law, in order that the conquest be complete and the temptations of the Canaanites eliminated. Cp. also 7:2b.

> Because he has preached sedition against Yahweh your (pl.) God who brought you (pl.) out from the land of Egypt and redeemed you (sg.) from the house of slaves...(v. 6b)

This is the same motive clause that we found in our previous section (on 15:15, 24:17). Yahweh is identified by his past act of deliverance. The author seeks to support Yahweh's claim to loyalty by this reference. Because of his act of deliverance, Israel is obligated to remain loyal to him alone. This line of thought belongs to the suzerain-vassal model.

Dt. 17:2 describes apostasy as 'breaking his covenant.' Since the covenant exists between Yahweh and Israel, and could literally be broken only by one of these two parties, this phrase involves an 'individualization' of a collective concept. It may well be that the acts of the individuals were imputed by God to the community, although this is not stated. It is also possible that the law-giver saw in the particular act the danger of multiplication until the entire people were implicated.

To conclude, we have found that the Deuteronomic motive clauses impose the law with the death penalty upon the community as duties. They stress the collective effect of the enforcement of the law. In Deuteronomy the community has become an independent entity over against Yahweh which owes him duties of enforcement. The covenantal order is understood on analogy to a suzerain-vassal relationship.

Casuistic Remedial Law

A. Alt divided the law into two basic categories, apodictic and casuistic.[1] We have found it necessary to distinguish between personally addressed prohibitions and commandments and impersonally formulated law imposing the death penalty on major offenses. We will be forced to divide casuistic law into two categories too, remedial and primary casuistic law. Remedial law is law which prescribes retaliation, composition and compensation for violations of persons or property. Primary law bestows rights and duties on persons in legal relations. Remedial law assumes the violation of primary rights and legislates for their redress.

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[1] *Op. cit.*, pp. 79-132.

Casuistic remedial law is impersonal in style. The structure is conditional: an hypothetical protasis describes the case under consideration and distinguishes it from similar cases, and an apodosis states the remedy, if there is to be one, for the case described. The initial clause of the protasis, which describes the more general features of the case under consideration, normally begins with כי, 'supposing that,' and any subsequent clauses specifying conditioning factors begin with אם, 'if.'[1] The apodosis must be distinguished from the protasis in some way. It may be made distinct by inverting the normal word order of the apodosis or by adding an infinitive absolute prior to its main verb.[2] Since it is characteristic of this type of law to take all possible factors of a case into consideration and to sentence accordingly the actual construction can become quite complex.

Casuistic law is formulated with litigation in view.[3] It must be specific and technical. Evidence and testimony must be as objective as possible. The remedy must be reasonable and conciliatory. Legal responsibility is in the foreground, moral considerations in the background. The subjects most amenable to casuistic remedial law are liability for injury to persons and property. Religious offenses and duties are least amenable because they do not have an injured party who would seek remedy in litigation.

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[1] *Ibid*., pp. 89ff.

[2] H. Gese, "Beobachtungen zum stil alttestamentlicher Rechtsätze," *Theologische Literaturzeitung* 85 (1960), (Henceforth: *ThLZ*), coll 147f.

[3] Alt, *op*. *cit*., pp. 90-92.

The Regular Form. Again the term 'addressee' is somewhat inappropriate, for the style is impersonal. Again we shall investigate the party whose act is governed by the legal formulation. Our task is to determine the party who would be responsible for the act or situation requiring remedy.

Casuistic remedial law is found chiefly in the Covenant Code and Deuteronomy. The Holiness Code lacks it entirely and the Priestly work preserves only a few samples.[1] There are several blocks of casuistic remedial law in the Covenant Code. Evidently there was a rough principle of collection: Ex. 21:18-36 covers liability for injuries to persons and animals, and Ex. 21:37, 22:1-14 liability for property theft, damage and loss.

The group of laws governing injuries to persons covers cases in which a fight has resulted in convalescence (21:18f), a master kills a slave (21:20f), a pregnant woman is caused to miscarry during a fight (21:22f), and a master injures a slave permanently (21:26f). In these cases the party held liable is the direct cause of the injury.

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[1] P includes casuistic remedial law only because of the priestly role in it: Num. 5:11-31. The style is altered somewhat.

In the next group (vv. 28ff) liability is assessed for things under a man's control. Ex. 21:28-32 treat the liability of an owner for injuries to persons caused by his ox. Ex. 21:33f assess liability for injury to animals caused by an uncovered pit and 21:35f to an ox by another ox.

The law governing livestock theft (Ex. 21:37-22:3) is a problem text. Daube argues that it can be accounted for in terms of amendments to the law rather than interpolations or disturbed order.[1] In any case, 21:37, 22:2b, 3 define evidence of theft and propose terms of restitution with compensation. 22:1-2a define liability for the death of a thief killed in the act. 22:4f assess liability for two forms of damage to property, grazing and burning. 22:6-14 govern cases in which property has been stolen, lost or damaged while in trusteeship. Oath-ordeals play a central role in the resolution of the latter.

Finally, the Covenant Code possesses a casuistic remedial law governing seduction or rape of an unbetrothed girl (22:15f). The man incurs a duty to marry the girl. In P a woman charged with adultery but who has not been caught in the act must undergo an ordeal administered by a priest (Num. 5:11-31).

To summarize, the acts governed by casuistic remedial law are those which individuals would perform. This species of law belongs to a legal community which arbitrates the disputes which arise between its members. The objective was to dispense justice and maintain and restore peace. The judicial system provided a means of orderly redress of wrongs. The fact that this type of law was a part of the covenant indicates that the covenant was understood as the legal framework for the society, a

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[1] Studies, pp. 89-95.

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community in its total life. The Covenant Code probably derives from the pre-monarchical period when the tribal league was the only 'institutional' framework for the people of Israel. It was precisely in this period that the covenant would have had a strictly political, or religio-political, character. When Yahweh promulgated casuistic remedial law, he was acting in the capacity of sovereign over the community for which it was binding, Israel, the sacral tribal league.

The Legal Supplements to Casuistic Remedial Law. As one would expect from the impersonal style, casuistic remedial law has no motive clauses attached to it. We do find legal supplements, also formulated impersonally, which explain the rationale of a ruling, amend a ruling or make concessions. We need not survey many of these. A couple of examples will suffice. Ex. 21:21 concludes a case law covering the liability of a slave owner for the death of his slave from beating with:[1]

> But if the slave survives a day or two, the (master) is not to be punished, for the slave is his money.

The final clause explains the ruling: The slave must be forced to work, and if this use of force unintentionally brings about the slave's death, the master cannot be held liable for an act against a person.[2] Ex. 21:22 contains two conflicting modes of setting a fine:

> The one who hurt her shall be fined according as the woman's husband shall lay upon him; and he shall pay as the judges determine.

Daube suggests that the second is an amendment to the law because the former method was resulting in exorbitant fines.[1]

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[1] See Gemser, op. cit., p. 56.

[2] Cp. David Daube, "Direct and Indirect Causation in Biblical Law," VT XI (1961), p. 248f.

One of the legal supplements of the Covenant Code is personally addressed to the court, viz., the lex talionis in 21:23f. This rather poetic unit is a rule for the assessment of penalties. As in 21:14, we cannot call this addressed rule a duty imposed upon the court, for its intention is instructional, not apodictic commandment.[2] The same rule is found in other A.N.E. codes, where it cannot be a question of collective duties. The personal address format does not change its purpose. It is clear evidence, on the other hand, that the Covenant Code had an oral setting.

The Deuteronomic Casuistic Remedial Law. In our study of law we discovered a consistent tendency to collectivize the addressee. This revision of the law dovetailed with the modelling of the covenant on a suzerain-vassal treaty. The law was a system of duties of enforcement owed Yahweh. Our task in this section is to determine whether the author revised casuistic remedial law in the same way.

The following table lists the casuistic remedial laws to be found in the Deuteronomic Code, their Biblical parallels, and the addressee of each:

Topic	Addressee	Parallels
Betrothal adultery (22:23f)	pers. coll.	
Rape of Betrothed (22:25-27)	pers.-coll.	
Rape of Unbetrothed (22:28f)	impers-distr.	Ex. 22:16f
Charge of Pre-marital Unchastity (22:13-21)	impers.-coll.	
Touching Genitals (25:11f)	pers-coll.	
Levirate Marriage (25:7-10)	impers-distr.	
Remarriage (24:1-4)	impers-coll.	

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[1] Daube, Studies, p. 108.

[2] Alt, op. cit., pp. 104ff, does treat it as apodictic law. Against this, cp. Gerstenberger, "Apodiktischen Rechts," p. 28.

Dt. 22:23-27 have been subsumed under 22:22, although stylistically they are independent.[1] 22:23f cover a case of adultery in which both parties are liable. The apodosis (v. 24) personally addresses the court/people. The apodosis of 22:25-27, a case where only the man is held liable, likewise addresses the court/people personally (v. 26). Thus, these two laws impose duties of enforcement of sanctions upon the community.

The third law of this group subsumed under 22:22, *viz*., 22:28f, intercourse between a man and an unbetrothed woman, has not been collectivized in any way. The sanction in this case is composition rather than retaliation.

Dt. 22:13-21, a case involving the charge of unchastity by a bridegroom, is formulated impersonally, although it concludes with collective motive clauses in case retaliatory sanctions are imposed against the woman (v. 21). Much of this law is devoted to describing court proceedings, the gathering of evidence to test the charges. Several other Deuteronomic laws have a similar expansion: 21:18ff (rebel son), 25:5ff (Levirate marriage), 19:16ff (false witness), cp. 21:1-9 (expiation of unsolved murder). The expansion draws the laws toward institutional law. Although this is not a direct collectivization, the tendency is away from the situation requiring remedy toward the role of the community in administering justice.

Dt. 25:11f governs an unusual case of a woman who attempts to help her husband in a brawl by grabbing his opponent's genitals. She may be

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[1] Note the כי in v. 23, which signifies the beginning of a major unit.

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violating a sexual taboo or fighting unfairly. In any case, the apodosis is personally addressed to the court. The sentence, cutting off the woman's hand, is the only punishment by mutilation recorded in O.T. law.

The law of Levirate marriage (25:5-10) begins as a casuistic law governing primary rights and duties to his dead brother, there is a remedy of public humiliation to be initiated by the dead brother's wife (vv. 7-10). The communal context of this law is stressed in v. 10:

> And the name of his house shall be called in Israel,
> the house of him that had his sandal pulled off.

The law itself is impersonally formulated and involves strictly distributive justice. The type of sanction is not amenable to conceptulization as a collective duty.

Finally, we have the ruling in 24:1-4. This is not a remedial law, for the situation described in the apodosis is not assumed to have taken place. The apodosis is not a sentence, but a negative ruling on whether a couple which has divorced, the woman has remarried, then been divorced or widowed, can remarry. The motive clause (v. 4b) is a command to the community not to let it happen. The law has thereby been collectivized.

The subject-matter of Deuteronomy's casuistic remedial law suggests that the author was concerned with moral but not technical legal questions. Deuteronomy's remedial laws govern sexual relations and the family. Sexual relations are moral questions par excellance. Continence and fidelity, for example, are personal moral virtues, while certain acts and relations are taboo (e.g., Dt. 24:1-4). It is this moral, and emotionally charged, sphere of relationships which sets the ethical tone of the community. The author of Deuteronomy seeks to maintain a high level of communal morality and protect the family through remedial legislation.

The laws governing liability, which make up a significant portion of the Covenant Code, are not taken up into Deuteronomy. In their casuistic remedial form, laws governing liability are technical rather than moral.[1] Legal responsibility is distinct from moral responsibility. Deuteronomy has no laws governing acts or events which do not involve personal moral responsibility. The author does attempt to cover relations in which persons are liable for injury to others or to others' property. To govern these, he draws upon casuistic primary law, for it imposes duties of a personal moral character upon the addressee. It is his purpose to motivate each Israelite to make his brother's interests his own.

As to addressee, the author of Deuteronomy has collectivized every case law which involved a collectively administered retaliatory sanction. Where the community was not to allow a certain act to take place, the motive clause was collectively addressed (24:4). On the other hand, when there was no court-enforced sanction, the law was left impersonal and distributive (25:7-10).[2] The people have the duty of enforcing sanctions against violators of the communal order. The casuistic remedial law has been constructed on analogy of the provisions of a suzerain-vassal treaty at this point.

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[1] For example, there is no need to establish intent, or even negligence, to gain restitution for a fire which has gotten out of control and burned a neighboring field: Ex. 22:5.

[2] Dt. 22:28f involves the court, but the sanction is composition laid upon plaintiff by the injured party, not a retaliatory sanction enforced by the court.

Motive Clauses to Deuteronomic Casuistic Remedial Law. Because of its impersonal style, casuistic remedial law did not attract paranesis in the classical legal tradition. In the Deuteronomic Code, the law has been collectivized and several times personally addressed to the community. It would be able to receive motive clauses which support communal enforcement.

The following table lists Deuteronomic casuistic remedial laws along with their motive clauses:

Topic	Purge	Prevent	-Pity	'in Israel'	Legal Suppl.
Adultery (22:23f)	x				x
Rape (22:25-27)					x
Rape of Unb. (22:28f)					x
Unchastity (22:13-21)	x				x
Touching (25:11f)			x		
Levirate (25:7-10)				x	x
Remarriage (24:1-4)		x			x

The purge formula is not as consistently used among these laws as it was among מות יומת laws. It belongs in Deuteronomy only to laws with the sanction of the death penalty. Dt. 22:25-27 does not have it because it is concerned primarily with the woman's fate. Dt. 24:4b,

> You shall not bring guilt upon the land which Yahweh your God is giving you for an inheritance,

motivates collective enforcement of a forbidden marriage. It is analogous to the purge formula.[1] The community must enforce the law to protect itself from the collective consequences of the acts of its members.

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[1] Aside from the fact that the 'land' becomes guilty, which makes no difference within our context.

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Dt. 25:12 has a prohibition against pity addressed to the court/people. It has a certain resemblance to the *lex talionis* in that it directs the court on how to act. However, its main thrust is to achieve compliance, not to provide a rule of thumb for the court's decisions. Thus, it belongs conceptually to law understood as collective duties.

The deterence and assurance motive clauses which we found attached to the מות יומת laws do not occur.

The bridegroom shall be punished if his charge of unchastity proves false because he

> has brought an evil name upon a virgin of Israel. (22:19)

If it proves true, the bride shall be put to death because she

> has done folly in Israel by playing the whore in her father's house. (v. 21)

In both of these, and in 25:10, 'Israel' is referred to as the community in which the evil has taken place. Only in 22:21 does this lead to a collective duty, but all have an indefinite effect on the conceptual framework of the law and hint vaguely at a threat to the community.

The legal supplements explain why both parties are to be put to death if adultery occurs in a populated are (22:24), but the woman shall not be if it occurs in the country (22:26f). In the latter there is a presumption of innocence when the woman would have been helpless in any case. Dt. 22:19b and 29b declare that a part of the sanction is the loss of the right of divorce. Dt. 24:4b declares the remarriage described in (24:1-4a) to be an 'abomination before Yahweh' because the woman has been 'defiled' vis-a-vis the man. Dt. 22:13ff and 25:7ff

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have expansions describing court process. All of these legal supplements could have been attached to casuistic remedial law in classical tradition.

To summarize, the Deuteronomic motive clauses correspond to those found on the מות יומת law. They stress the collective effect of the enforcement of the law and collective danger in its violation. The collectivization of both the law and motive clauses demonstrates that the author is consciously remodelling the legal tradition on suzerain-vassal duties.

Casuistic Primary Law

Alt included a species of law under the category of casuistic law which differs substantially from the type of law just examined.[1] This species has a similar syntactical style, but the subjects and mode of treatment are different and this has led to personal address in many of the specimens.

The protasis of this species of casuistic law describes a legal situation and the apodosis stipulates the rights and duties of the parties involved. Unlike casuistic remedial law, no injury has occurred for which liability and sanctions are assessed. The setting is non-judicial. Legal relations, such as master and slave, lender and borrower, assister and assisted, are described and regulated. We call these laws casuistic law governing primary rights and duties, i.e., rights and duties bestowed upon parties by virtue of their participation in legal relations. Remedial rights and duties are bestowed by court decision upon parties because of the violation of primary rights and duties.[1]

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[1] Cp. Alt, op. cit., pp. 93ff.

Casuistic law governing primary rights and duties was originally formulated impersonally. This fact is demonstrated by Biblical examples which are impersonally formulated (e.g., Ex. 21:2ff, Dt. 25:6ff) and by numerous A.N.E. parallels.[2] However, there is a definite tendency toward personal address among the Biblical examples. Ex. 21:2ff is in transition, beginning with personal address and then becoming impersonal. The remainder of the examples of the Covenant Code are personally addressed.

On the basis of the A.N.E. parallels, casuistic primary law must have originated in court decisions.[3] However, the species has been separated from that setting in Biblical law. The personal address style demands an oral setting. There is a definite intention to persuade the addressee to comply. The language becomes moral-paranetic. This is probably an indication of remedial weakness. That is, this law probably filled gaps in the remedial law, gaps created by the weaknesses of the legal machinery.

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[1] Lloyd, op. cit., pp. 312ff.

[2] We shall not list all of these, which range from duties to maintain the canals (MA B, 17f) to inheritance rights (MA A, 28f, B 1ff). CH PP 117-119 are parallel to the slave law in Ex. 21:2ff. The Hittite Laws (P 71) closely parallels Ex. 23:4.

[3] Our reasoning is this: The A.N.E. codes were made up of court decisions, so casuistic law governing primary rights and duties must have its origin there. Moreover, the example from the Hittite laws is found in a section on theft. The finding of an animal might have led to a charge of theft, so the law had to protect the finder. The Hittite law provides means to protect the finder and even allow him to use the ox until his owner seeks it.

The Regular Form. Our task in this section is to determine the party responsible for the act prohibited or prescribed in casuistic primary law. Most of our examples are addressed to a 'thou' and it is our duty to describe who this party is.

This species of law is found in the Covenant Code, Holiness Code and Priestly law. We shall cover all the examples in the Covenant Code and selected examples from H and P. Let us begin with the former.

Ex. 21:2-11 governs the legal relation of slavery, vv. 2-6 of a man, vv. 7-11 of a woman. The first begins with a definition of the legal relationship:

> Supposing that you buy a Hebrew slave, he shall serve six years and in the seventh leave a free man without purchasing (his freedom).

The apodosis posits the owner's right and slave's duty to six years of labor and the slave's right to freedom at the end of this period. The remainder of the law (vv. 3-6) defines the rights of the master and slave at the moment of departure, concluding with the procedure by which the slave may relinquish his right to freedom. The 'thou' addressed in the initial protasis is the slave owner.

The following case (21:7-11) bestows rights upon a female slave who has been designated to be a wife of the master or his son. Her enslavement is not terminal (v. 7). The master cannot sell her to a foreign people and if he does intend to sell her, she can be redeemed (v.8). Her master-husband is obligated to treat her equitably, and if he does not she has the right to go free (vv. 9-11). The entire law is impersonally formulated, oriented toward protecting the rights of the weaker party.

Ex. 22:24-26 govern lending to the poor. It prohibits taking interest or 'acting as a creditor.' If a garment is held in pledge, it shall be returned at nightfall. The law addresses the stronger party of the legal relation, the lender.

Ex. 23:4f prescribe two duties of assistance, to return a lost animal and to help someone with a downed animal. In each case the addressee who is personally addressed is the one who is able to assist. The one assisted is his 'enemy.' Apparently the law-giver thought that one would assist a friend or stranger without question.

Ex. 23:11b explains the purpose of the fallow year as a measure to aid the poor and wild animals. 23:12b explains the Sabbath rest as a measure for the animals and workers under one's control. Both of these provisions are duties in their own right, and shall be examined under institutional law. A convergence has occurred.

In the Holiness Code, the law of the Jubilee year (Lev. 25:8-55) has gathered a number of casuistic primary laws around it. When inheritance property is exchanged, it will revert to the original owner on the year of jubilee (25:13-16). The addressee is the buyer (and seller in v. 14). The right to redeem a family inheritance exists at all times (25:23-27). If it cannot be redeemed, in the year of jubilee it will revert back to the original family (v. 28). Houses in walled cities can, after a year of redemption rights, be sold in perpetuity (25:29-30), but houses in villages are 'reckoned with the fields' (v. 31). There are special provisions for Levites (vv. 32-33) and the village common (v. 34). If a man becomes poor, his richer neighbors, who are personally addressed, are to lend him money without interest and sell him food without profit (vv. 35-37). If an Israelite is forced to sell himself into slavery, he is to be treated as a free worker and released on the year of jubilee (vv. 39-43, 46b). Non-Israelite slaves can be treated as property held in perpetuity (vv. 44-46a). The addressee is a slave-owner. If an Israelite becomes enslaved to a non-Israelite, he may be redeemed or redeem himself at any time (vv. 47-49). In any case, the Israelite shall go free on the year of jubilee and his value must be computed accordingly (vv. 50-54).

The Priestly work contains a line of inheritance which falls into the category of primary rights and duties (Num. 27:8-11). Daughters who inherit property must marry within their tribe (36:6-9). Interestingly, both of these specimens were formulated in response to requests by interested parties. After their father's death, the daughters of Zelophehad requested a family inheritance (27:1-7). The elders of their tribe had their marriage rights restricted to guarantee the tribe's continuing possession of its land (27:1-4).

Our survey of casuistic primary law shows that it was formulated for individuals who participated in legal relations. It bestowed rights and imposed duties on parties to such relations. When it was personally addressed, it addressed the stronger party of such relations or the one owing duties of assistance. The law tended to protect the weaker party's rights and impose duties on the stronger party. Such distributively addressed law cannot be explained on analogy to suzerainty-vassal treaty provisions, but it well suits the sovereign-subject model. Yahweh bestows rights and imposes duties on his subjects. He protects the weak from the strong and demands neighborly behavior.

Motive Clauses Attached to Casuistic Primary Law. When the casuistic primary law is formulated impersonally, we do not expect motive clauses. However, the legal explanations tend to appeal to the sense of justice. For example, Ex. 21:8b reads:

> He shall have no right to sell her to a foreign people,
> for he has dealt faithlessly with her.

The explanation makes a moral judgment of the master's action. Other statements have more a moral than objective legal significance in this law. Lev. 25:42 says of Israelite slaves:

> They are my servants, whom I brought forth out of the land of Egypt.

As God's servants, they can never be made permanent servants of any human. On this basis, it is forbidden to enslave them perpetually or sell them.

The personally addressed casuistic primary law has motive clauses of the same type as apodictic prohibitions. Ex. 22:24-26 supports the duty of a lender to return a pledge at night with the reasoning:

> It is his only covering, it is his mantle for his body. In what else shall he sleep?

This is a moral consideration, for law would allow a lender to keep the pledge as long as the loan was outstanding. To this explanation is added a warning:

> If he cries to me, I will hear, for I am compassionate.

This promise of protection to the poor is an implied divine sanction against the lender for violation of the provision of the law.[1]

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[1] Cp. von Rad, *Genesis*, p. 206: "The word "outcry" (z^{ec}-aqā) is a technical legal term and designates the cry for help which one who suffers a great injustice screams." When it is directed to God, it takes the form of lamentation in the Bible.

Ex. 23:4f have no motive clauses, but the style as a whole is paranetic. Strict law would not use the word 'enemy' as the one to whom duties are owed, no more than it would limit the application of the law on loaning to the 'poor.' Anyone in need of assistance could claim the right. However, the law-giver is admonishing the addressee to assist one whom he would not naturally assist.

Lev. 25:8ff has a number of motive clauses. V. 17 admonishes the persons who buy and sell land:

> You shall not wrong one another, but you shall fear your God, for I am Yahweh your God.

One should loan to a poor Israelite

> that your brother may live beside you (v. 36),

rather than be forced to sell himself into slavery. If he does have to sell himself to another Israelite,

> You shall not rule over him with harshness, but you shall fear your God. (v. 43)

All of these motive clauses apply distributively, as the laws to which they are attached bestow rights and impose duties distributively. Yahweh seeks to persuade his people by appealing to their sense of justice to honor the rights of the weaker party of legal relations. He does so as a sovereign concerned about the welfare of those subjects of his who are unable to maintain their own rights.

The Deuteronomic Casuistic Primary Law. In the previous sections of this chapter we have found that the author of Deuteronomy has collectivized a portion of his law. That is, he has imposed duties upon the community. He addressed several apodictic laws to the community and all of the מות יומת and most of the casuistic remedial law imposed duties of enforcement upon the people. Here we must analyse the addressee of the fourth and final species of law addressed to the public at large.

The following table lists the casuistic primary laws to be found in the Deuteronomic Code, their Biblical parallels, and the addressee of each:

Topic	Addressee	Parallels
Exemptions of newly wed (24:5)	impers-distr.	(Dt. 20:7)
Levirate marriage (25:5f)	impers-distr.	
First born (21:15-17)	impers-distr.	cp. Num. 27:1ff
Slavery (15:12-17)	master	Ex. 21:2-11
Fetching pledge (24:10f)	lender	cp. Ex. 22:24
Holding pledge (24:12f)	lender	Ex. 22:25
Captive wife (21:10-14)	husband	cp. Ex. 21:7ff
Gleanings (24:19-21)	farmer	cp. Ex. 23:11b
Bird nest (22:6f)	finder	
Loan near Sabbatical year (15:7-11)	lender	cp. Lev. 25:37
Neighbor's crop (23:25f)	eater	
Railing around roof (22:8)	owner	
Assistance (22:1-4)	one able	Ex. 23:4f
Interest on loan (23:20f)	lender	Ex. 22:24f
Escaped slave (23:16f)	community of residence	
Millstone as security (24:6)	lender	cp. Ex. 22:25
Payment of wages (24:14f)	hirer	Lev. 19:13

This large group of laws, perhaps half of the laws addressing the people at large, address the people distributively. A brief survey of our examples, describing the rights and duties posited by each, will demonstrate this.

Dt. 24:5, formulated impersonally, bestows the right of a newly wed to exemptions from normal military and civilian responsibilities for the first year of his marriage. The law of Levirate marriage (Dt. 25:5f) bestowes the right

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not to have his name blotted out of Israel (v. 6b), upon a man who has died childless. His brother owes him the duty of fathering a child by his wife. Dt. 21:15-17 protects the right of primogeniture from being overturned by a father's preference.

Dt. 15:12-18 is an addressed, and paranetically modified, form of Ex. 21:2-6. It addresses the master. It bestowes the right to freedom after six years of labor upon the slave and prescribes the terms of severance or relinquishment of rights. The master is duty-bound to honor these rights and is admonished to be generous. A woman slave falls under the same provision.

The legal relation of loaning is the subject of several casuistic primary laws. Dt. 24:10f bestows the borrower's right to honor when a pledge is taken. A millstone cannot be taken as a pledge because it is necessary to daily living (24:6). Interest shall not be charged on Israelites, though it may be of foreigners.(23:20f). A garment held in pledge must be returned at sundown (24:12f). All of these are restrictions upon the rights of the lender. Finally, as an example of the operation of the year of release, the law-giver bestows the right to a loan, and the duty of a lender to grant it, even though the year of release will cancel the debt (15:7-11).

Dt. 21:10-14 allows an Israelite man to marry a woman taken captive in war, but he must not treat her as a slave. If he divorces her, she has a right to her freedom. Dt. 24:19-21 restricts a farmer's right to his crop to the initial harvesting and bestows the right of gleanings on the poor. Dt. 23:25f defines the line between legal and illegal eating of a neighbor's crop. Dt. 22:6f restricts the freedom of exploiting nature. Dt. 22:8 imposes the duty of building a railing around one's rooftop veranda to prevent accidents.

The last six examples of our table are formulated in quasi-apodictic style. Unlike regular apodictic law, they govern specific legal relations. Dt. 22:1-4 imposes duties of assistance upon one who finds a stray animal or who happens on someone whose animal is down. The proto-type is the casuistic primary law in Ex. 23:4f. Dt. 24:14f impose the duty of paying wages on the day they are earned upon a hirer. An escaped slave is not to be returned to his owner by anyone who lives in the town to which he has fled (23:16f).

To summarize, the casuistic (and apodictic) primary law of the Deuteronomic Code continues to address the community distributively. Like the classical form, Deuteronomy's primary law bestows rights and imposes duties upon parties to legal relations. When the legal relations involve weaker and stronger parties, the stronger party is personally addressed. In other cases, it is the one who owes duties who is addressed. If the author of Deuteronomy intends to model the covenant upon the suzerain-vassal treaty, the primary law must be placed in a larger framework, for in itself it suits the sovereign-subject model.

There is one rather intangible distinction between Deuteronomy and at least the Covenant Code: The primary law no longer simply fills gaps in the remedial law. In the Deuteronomic Code, the only law governing property relations and liability for injury to persons is primary law. The author thereby, has placed the emphasis on the moral duties the average or representative Israelite has toward the poor, slave, alien, and so forth. His law is insufficient for an actual legal community. He assumes an adequate remedial law. His aim is to gain respect for the neighbor's property and desire to prevent accidents, and above all to persuade those able to rectify the economic and social inequalities left untouched by remedial law.

Motive Clauses to the Deuteronomic Primary Law. We have found in our previous examinations of Deuteronomic legal paranesis that collectively addressed law attracted collectively addressed motive clauses, while distributively addressed law attracted distributively addressed motive clauses. Here we meed to determine whether the pattern, collective law -- collective motive clauses, distributive law -- distributive motive clauses, hold true.

The following table lists Deuteronomic casuistic primary laws along with their motive clauses:

Law	Sanction	Bless	Land	Exodus	Legal Suppl.	Moral Explan.
Newly Wed						x
Levirate					x	
Primogeniture					x	
Slavery		x		x	x	x
Fetch Pledge						
Hold Pledge		x				x
Captive Wife						x
Gleanings		x		x		
Bird Nest		x				
Loan to Poor	x	x				x
Neighbor's Crop						
Railing	x					x
Assistance					x	
Interest		x	(x)		x	
Escaped Slave			x			x
Millstone						x
Wages	x		x			x

Let us discuss the motive clauses briefly, beginning with the left hand column and moving right.

As in the Covenant Code, divine sanctions are occasionally threatened against the owner of duties. Dt. 15:9 and 24:15.

> And he cry against you to Yahweh, and it be sin in you,

threatens sanctions for oppressing the weaker party. Dt. 22:8 threatens guilt upon the house from which someone falls.[1]

Dt. 15:10, 18, 22:7, 23:21, 24:13, 21 assure the addressee blessings and success if he complies with the law. 15:18 is typical:

> So that Yahweh your God will bless you in all that you do.

24:13 says that compliance will

> be righteousness to you before Yahweh your God.

Like the sanctions, the assurances apply distributively.[2]

Dt. 23:21 adds a collective determination,

> in the land which you are entering to take possession of it,

to an assurance to an individual. Dt. 24:14 and 23:17 have similar collective determinations of persons and places:

> ...in your midst/land, within your towns.

The distinction between individual and community is somewhat blurred by these references which address the people collectively attached to distributive law.

There are two references to the status of Israelites in Egypt: Dt. 15:15 and 24:22. We discussed these under apodictic law. The chief thrust of the Deuteronomic motive clauses referring to Israel's

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[1] Daube, "Causation," op. cit., p. 251, doubts that the threat applies to the owner of the house, since the wording states that the house will become guilty. Cp. Miles in G. R. Driver, and J. C. Miles, The Babylonian Laws, (London: Oxford, 1952-1955), I, p. 228, on a case of 'cleansing a house' of all claims against it.

[2] They are unique to the Deuteronomic school.

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Egyptian experiences is to establish a sense of obligation to Yahweh's demands protecting the poor and powerless. The distinction between individual and community is also blurred somewhat by these references.

The legal and moral supplements explain the purpose for rulings, grant concessions and so forth. A man has a right to have his name continue in Israel (25:6), and the first born son has a right to inherit his double portion because

> He is the first issue of his (father's) strength. (21:17)

A master should honor a slave's right to freedom for

> at half the cost of a hired man he has served you six years. (15:18)

One should return a man's pledged garment at night so he can sleep in it (24:13) and not take a millstone in pledge because

> He would be taking a life in pledge. (24:6)

Wages should be payed on the day that they are earned because the worker desires the money (24:15). A captive woman has a right to her freedom if she is not taken as a man's wife, because she has been humiliated (21:14).

To conclude, the motive clauses attached to the casuistic primary law are distributively addressed. They are much like the motive clauses and explanations of the classical tradition. To be sure, there is a slight breakdown of the distinction between individual and community. This is not at all surprising in view of the collectivization which we have found elsewhere in the Code. In fact, it is surprising that collective and distributive law and motive clauses have remained so distinct. None of the motive clauses attached to collectively addressed law are attached to casuistic law governing primary rights and duties. By themselves, the Deuteronomic casuistic primary law and motive clauses assume the sovereign-subject model of the covenant.

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CHAPTER V

THE ADDRESSEE OF THE LAW II: INSTITUTIONAL LAW

Law requires instrumentalities of implementation and enforcement, and these instrumentalities themselves must be governed by rules. Such rules have been collected with the law governing the public at large in the Bible and in the ancient Near Eastern legal codes.[1] Since we are examining the addressee of the law, law addressed to communal officials or lay members of institutions must be treated as distinct from law for the public at large.

Court Regulations

In this section we shall treat the law addressed to members of the court. This category of law is not distinguished by a specific syntactical style. It is usually personally addressed in Biblical law and tends toward apodictic law. However, rules for trial procedure and principles of evidence and punishment do not necessarily possess an 'apodictic mentality.' The style of formulation may suggest an unconditional demand whereas the actual purpose may simply be to describe the appropriate procedure or principle.

The officials of the court were simply the enfranchised members of the legal community. There were, of course, professional legal experts in the major cities,[1] but the Biblical collections of law do not address these experts, or at least not separately. In other words, the Biblical law addresses the lay members of the community when it addresses the officials of the court.[2]

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[1] E.g., CH 5, 26ff.

The Addressee of the Court Regulations. Our task in this section will be to determine in what capacity the members of the court are acting when they fulfill their legal responsibilities. We must discover whether the court is addressed distributively, as personally accountable for their behavior, or collectively, as a proxy of the community. The answer to this question will decide between the sovereignty-subject and suzerainty-vassal models. A distributive address indicates that the court is an instrumentality of Yahweh's administration of justice as sovereign and supreme judge. A collective address indicates that the court is an instrumentality of the community to fulfill the collective vassalhood duties it owes Yahweh.

We shall devote most of our attention to the Covenant Code and Ex. 18:13-27 and treat the Holiness Code and Priestly law briefly. The Decalog and Yahwist lack examples of law governing officials in the court process.[3]

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[1] Cp. Boecker, Redeformen, p. 59; R. deVaux, op. cit., pp. 153f.

[2] There have been a number of studies of court process in Israel, among the most helpful being Boecker, ibid., and Köhler, "Justice in the Gate," in Hebrew Man.

[3] The commandment against false witness in the Decalog (Ex. 20:16) appears to be addressed to the private citizen. The same commandment is found in the 'exemplar of the judges,' viz., Ex. 23:1.

Let us begin with the 'exemplar of the judges,' Ex. 23:1-3, 6-8.[1] The style is apodictic prohibition. The addressee is commanded not to offer false or malicious testimony, to join a consensus against his conscience, or show partiality toward a poor man (23:1-3). He must not pervert the justice due the poor, make false charges, convict the innocent or take a bribe (23:6-8). These acts are the kind of acts individual judges might be guilty of and accountable for. The exemplar is distributively addressed.

Ex. 21:13f address the people of Israel. V. 14 prescribes a procedure over which some judicial body would be responsible. There would have been a hearing to decide whether a killer had a right to sanctuary. The people and court are treated as identical. However, the court process does not come directly into view. The apodosis of v. 14 simply describes the consequences of the law in personal address. The structure of the clause stresses 'from the altar' he shall be taken, not the duty of the people/court to take him from it. We do not find a collective duty, with implied collective accountability, here.

Ex. 21:23-25 addresses the court in the midst of casuistic remedial law. Alt treated this pericope, the lex talionis, as an example of apodictic law.[2] However, the stress is not upon 'you shall give,' but upon 'life for life, eye for eye,...' The lex talionis is a principle, poetically formulated, for assessing penalties. It is not a collective duty fulfilled by the court.[3]

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[1] See Rabast, op. cit., p. 23 on the 'exemplar of the judges.' Contrast Gerstenberger, "Apodiktischen Rechts," pp. 83f.

[2] Op. cit., pp. 104-106. [3] Cp. also our argument above.

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To summarize the Covenant Code, there is law addressed to the court, but only the law addressed distributively covers violations of judicial process. The description of the procedure for handling sanctuary and the principle of assessing punishment are not conceived of as duties which required collective fulfillment. The court process, include procedures and principles, is protected by distributively addressed prohibitions.

Exodus 18:13-27. This pericope is an aetiology of the Israelite judicial system from the Elohist source.[1] As the passage stands, judicial and militia organization have been fused (vv. 21b, 25b).[2] Setting aside the military structure, the Israelite legal system had two orders of courts. The lower courts consisted of upright men appointed by Moses because they were

> able men from all the people, God-fearers, truthful men, bribe-haters. (v. 21a)

This description echoes the exemplar of the judges (Ex. 23:1-3, 6-8).[3]

The lower courts have original jurisdiction and 'Moses' final. Difficult cases were to be brought to him (vv. 22, 26) and he would inquire of God's decision (v. 19b, also vv. 15f). Moses was also to teach the people the law (v. 20).

This passage is relevant to our discussion because it outlines the structure of the Israelite legal community. God is the source of the law. It is mediated through 'Moses' his interpreter. Below him are the courts which enforce it. God's role approximates that of a supreme judge of a community who has the power to legislate to meet new circumstances. As such, he has the authority of a sovereign. We have a judicial system with God as the court of last resort and law-giver and the local courts as an extension of the judicial system. The courts do not fulfill the people's collective responsibility to God, but administer God's law and defer to his final authority. The behavior of the judges would be a matter of personal accountability (v. 21a).

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[1] Noth, *Exodus* (OTLib), p. 146.

[2] Ehrhard Junge, *Der Wiederaufbau Heerwesens des Reiches Juda unter Josia*, ("Beiträge zur Wissenschaft vom Alten und Neuen Testament," 23; Stuttgart: W. Kohlhammer, 1937) p. 56f.

[3] 'Able men' (חיל) is most likely a military adjective.

The Holiness Code and Priestly Law. Both H and P portray the law as revealed by Yahweh to Moses, who repeats it to the people (Lev. 1:1ff, 18:1ff, etc.). When a case arises for which there is no legal precedent, Moses inquires of Yahweh and he promulgates a law (Lev. 24:10ff, Num. 27:1ff). Thus, these sources assume the same structure within the legal community as Ex. 18:13-27 describe.

Normally in H the execution of a penalty is described in third person (20:2, etc.). Lev. 20:15b, 16b do add second apodoses in personal address style. The addressee is the court/people. This indicates a slight development toward collective duties of enforcement, but the development is restricted to the two examples mentioned and a motive clause in 20:14b. The sovereignty-subject model is still dominant. The court members are addressed distributively in an exemplar (Lev. 19:15f).

The Motive Clauses of Court Regulations. We must examine the motive clauses attached to the law governing judicial process to substantiate or refute our understanding of the legal community. It is our view that duties of enforcement, or rather prohibitions against violation of the judicial process, were imposed distributively on the members of the court. If this is so, the motive clauses would be formulated with individual judges in mind.

In the Covenant Code we find motive clauses attached to prohibitions in the exemplar of the judge. Ex. 23:7 warns that

> I will not acquit the wicked.

The speaker is, of course, Yahweh, speaking as a judge. In the context the 'wicked' must refer to someone who makes false charges or 'slays' (judicial murder) the innocent and righteous. That is, divine sanctions are threatened against injust judges. The officials of the court are held responsible by Yahweh for the way they administer justice.

Ex. 23:8 explains how bribes subvert justice. The style is proverbial.[1] The application is distributive, since bribe-taking is an act of an individual judge.

In Ex. 18:23 Jethro promises Moses that if he sets up the judicial system as directed,

> then you will be able to endure, and all this people also will go to their place in peace.

The promise to Moses refers to the burden of hearing every case. The promise of peace to the people refers to the success of the court system in settling disputes among them. This is something of a 'collective assurance,' but it would be ridiculous to extrapolate a duty of enforcement from it. The assurance is attached to the establishment of the system, an act for which Moses is responsible.

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[1] Beyerlin, "Die Paranese des Bundesbuch," op. cit., p. 16.

Again the Holiness Code and Priestly law is in general agreement with the older traditions. There are no collective assurances or sanctions attached to the law for its enforcement. Once we do encounter a motive clause which has a collective horizon:

> That there may be no wickedness among you. (Lev. 20:14)

This moves in the direction of the purge formula in Deuteronomy. Nevertheless, the development is quite isolated. The phrase,

> be cut off from among his people,

which is quite common, is of an entirely different order. It is to be taken literally, as a legal, cultic, or divine sanction of excommuncation.[1] The application is distributive.

The Addressee of the Deuteronomic Court Regulations. In our study of the Deuteronomic law addressed to the public at large, we discovered that a large and important portion of it had been collectively addressed. The most common form of collectivization was the imposition of the duty of enforcing sanctions on violators of the law. In these cases collectivization means, in effect, the address of the court. The court acts as an instrument of the community to fulfill the collective duties the people owe Yahweh. In this section we must determine whether the law regulating the court itself also addressed it as a proxy of the people.

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[1] Those formulated in first person Yahweh are clearly divine sanctions. Those formulated impersonally are less certain. The latter could be sanctions imposed by a court or priesthood. Statistics: Driver, LOT, p. 49.

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The following table lists the Deuteronomic laws governing the court, their Biblical parallels, and the addressee of each:

Topic	Addressee	Parallels
Establishment of Judiciary (16:18-20)	coll/off.	Ex. 23:1-3, 6-8, Lev. 19:15f, Ex. 18:13-27
Advisory Jurisdiction (17:8-13)	distr/coll.	Ex. 18:13-27
False Testimony (19:15-19, 17:6)	impers/coll.	(A.N.E.)
Expiation of Unsolved Murder (21:1-9)	coll/impers.	(A.N.E.)
Disposal of Body (21:22f)	court-coll.	
Legal Accountability (24:16)	impers.	
Flogging (25:1-3)	impers/comm.	
First Stone (13:9, 17:7)	(distr.)	

A glance at the addressee column indicates the complexity of the situation. The slash mark (/) indicates that different parts of the law have different addresses. We need to survey the examples case by case.

Dt. 16:18-20 correspond to the aetiology of the judicial system in Ex. 18:13-27. The community is commanded to appoint judges to represent it in law:

> You shall appoint judges and officers[1] in all your towns which Yahweh your God is giving you, according to your tribes; and they shall judge the people with righteous judgment. (16:18)

The judges are mentioned in third person, thus as distinct from and subordinate to the people. The passage then without any signal addresses them personally:

> Do not pervert justice! Do not show partiality! Do not take a bribe, for a bribe blinds the eyes of the wise and subverts the cause of the righteous! (16:19)

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[1] The word 'officers' (שטרים) appears to be anomalous: von Rad, Deut. (OTLib), p. 114.

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The judges seem to have become identified as the community. In any case, the fate of the community is bound up with their functioning:

> Justice, justice you shall pursue in order that you may live and possess the land which Yahweh your God is giving you. (16:20)

The force of this passage is to make the court a creation of the community which represents it in law and fulfills its duties of enforcement owed Yahweh.

Dt. 17:8-13 governs the jurisdiction of the courts. It addresses the lower court and speaks of the advisory legal experts in third person. The lower court must seek advice on difficult cases from the 'judge' or Levitical court at the central sanctuary.[1] Although this structurally corresponds roughly to Ex. 18:13-27, God is not mentioned as the supreme judge and law-giver. This may be coincidental or it may represent another view of the legal community. In any case, the lower court is addressed distributively, and individual judges put under legal sanction. When the court executes the defiant judge, it acts in behalf of the collectivity.

Dt. 19:15-19 governs testimony. 19:15 states (impersonally) the rule that two witnesses are required for conviction. 19:16-19 describe the procedure for examining someone suspected of false witness. The advisory court has jurisdiction. If it finds the witness guilty, he is to be punished with the punishment he put the accused in jeopardy of. The final apodosis (v. 19) is personally addressed. Although the sentence would literally have been carried out by the court of origin, it is addressed as the collectivity.

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[1] Cp. page 246, footnote 1. This is probably a systematization and idealization of a more informal and less binding system of jurisdiction. The duality of a judge and a Levitical court has been the subject of much discussion. It is beyond the scope of our topic.

Dt. 21:1-9 prescribes a ritual expiation of an unsolved murder. The act would be performed by the town nearest where the body was found.[1] However, the law itself is addressed to the collectivity. 'Thou' refers to the whole people throughout the law, while the action of the local authorities is described in third person. The law begins with a collective address (vv. 1-2). The prayer asks God to forgive Israel (v. 8). The unsolved murder threatened the people with collective guilt. The act of expiation, along with the actual innocence of the authorities (v. 7), is done in behalf of the entire people ('thou' in v. 9). It has the same effect as enforcement of the law does in other cases (v. 9).[2]

Dt. 21:22f prescribes that a dead body of an executed offender not be left hanging overnight. The rule is personally addressed. While a particular court would have been literally responsible for compliance, the addressee is the community as well, for the law has collective motive clauses (v. 22b).

Dt. 24:16 gives a rule for legal accountability in personal style. Dt. 25:1-3, limiting flogging to forty stripes, is formulated impersonally, but the motive clause is personally addressed to all Israelites (severally).

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[1] On the basis of parallels recorded by Driver-Miles, Babylonian Laws I, pp. 110f, and the intrinsically local character of the ritual, we can surmize that prior to Deuteronomy atonement was for the locality, not all-Israel. The latter seems rather artificially imposed.

[2] So Preiser, op. cit., pp. 33f, 36ff.

A number of the laws already treated prescribe court process. In them the administration of justice has become an important adjunct to the case. Dt. 13:10 and 17:7 are examples of court rules which have crept into the law. They require that the convicting witnesses throw the first stones in an execution.

To summarize, in Deuteronomy the court fulfills the collective duties of enforcement of sanctions owed Yahweh. Many of the cases move fluidly from distributive to collective address. The court is an instrument of the community which stands as its proxy in the sphere of law. The model operative is the suzerainty-vassal treaty. However, the distributive principle forces its way into the law governing court process, for it is necessary to hold specific persons accountable.

Motive Clauses to the Deuteronomic Court Regulations. If the court is addressed collectively, i.e., as a proxy of the people of Israel, we would expect the motive clauses attached to it to address it also as the national community. We have found that the collectivized law governing the acts of the public at large had motive clauses supporting the community/court's duty. We would expect motive clauses of the same type here.

The following table lists the Deuteronomic regulations of the court and judicial process along with their motive clauses:

Topic	Purge	Deter	Prevent	Assure	-Pity	Social
Judiciary (16:18-20)				x		
Jurisdiction (17:8-13)	x	x				
Testimony (19:15-19)	x	x			x	
Expiation (21:1-9)	x					
Body (21:22f)			x			
Accountability (24:16)						
Flogging (25:1-3)						x
Stoning (13:9, 17:7)						

The execution of a judge who disobeys the instructions of the advisory court, the punishment of a false witness, and the expiation of an unsolved murder all have the effect of purging the community of guilt. The last of these, expiation, is qualified by a general paranetic condition. The execution of the judge and punishment of the false witness also will deter others from repeating. The purgation and deterence motive clauses were attached to מות יומת and casuistic remedial law and have been examined above.

The burial of the body of an executed offender before nightfall will prevent the land from being 'defiled.' This law also has the determination,

> a hanged man is accursed of God.

If he is left hanging over night, he will defile the land. This collective consequence can be avoided by burial on the same day as execution.[1]

The pursuit of justice by the court will assure the people of life and possession of the promised land. Dt. 16:20 is one of the very few cases in the Code where this assurance is completely collective. It is commonly attached to distributively addressed primary law.[2]

The punishment of the false witness is supported with a prohibition of pity and the rule of assessing penalties (lex talionis). The latter of these is a procedural rule, formulated impersonally. The former protects the law from being adjusted at the discretion of the judges. The author insists upon strict adherence to the sanctions laid down in law. It imposes a collective duty upon the people/court.

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[1] Also a disposition: see among others H. C. Brichto, The Problem of "Curse" in the Hebrew Bible.("Journal of Biblical Literature Monograph Series" XIII; Philadelphia: Society of Biblical Literature and Exegesis, 1963), pp. 191-194, on the rationale of this explanation.

[2] See above, motive clauses to casuistic primary law in Deuteronomy.

The limit set to the number of stripes when a man is punished by flogging is explained thus:

> Lest your brother be degraded in your sight. (25:3)

It attempts to protect an Israelite from the social ostracism or contempt which might accompany his actual punishment. The lay community is addressed distributively.

To conclude, the motive clauses attached to the court regulations address it as a proxy of the people of Israel. The court fulfills the duties which the people owe their suzerain when it enforces the law.

Cultic Regulations

The covenant between Yahweh and Israel made Israel a religious as well as a legal and political community. The people were required to maintain an institution, the cultus, devoted to the worship of Yahweh, its God. Rules regulating this institution have made their way into covenantal law, and these need to be examined as a part of our analysis of the addressee of the law.

J. Begrich, in his study of cultic rules, differentiated between *torah* for the laity and *da^{c}at* for the priesthood.[1] The latter was

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[1] J. Begrich, "Das priesterliche Tora," pp. 63-88, esp. pp. 66, 80-87. Cp. Hos. 4:7, Mal. 2:7. R. Rendtorff has devoted his work, *Gesetze in P*, to an exhaustive study of *da^{c}at*.

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formulated impersonally and descriptively. The former, which is much more common in the Biblical codes, prescribes duties and occasionally proscribes acts. Grammatically these may be imperatives, personal and impersonal jussives. Yahweh is the speaker.[1] Stylistically, torah, is often indistinguishable from apodictic law.

The basic communication may be supplemented by decisions regarding holy and profane, clean and unclean by declarations of approval or censure, and by descriptions or prescriptions of penalties for violation.[2]

Court law was addressed to 'officials,' the judges of the local court. When we speak of officials in the cultus, we are speaking of the priesthood. Some of the cultic regulations are addressed to the priesthood. But this does not exhaust the potential addressees. The entire community belonged to the cultus as well. Cultic regulations address the people at large in their special capacity as lay participants in the cultus.

The Addressee of the Cultic Regulations. Since the covenant was a relationship between Yahweh and Israel, it is conceivable that the cultus might act as the instrumentality for fulfilling the community's collective, vassal-hood duties to their God. Again we must investigate to determine whether the cultic regulations address the community distributively or collectively.

We shall survey all of the relevant cases in the Covenant Code and Decalog. We shall include motive clauses in our examination.

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[1] Begrich, *ibid.*, p. 73.

[2] *Ibid.*, pp. 73-78.

The Covenant Code begins with a set of commandments and prohibitions governing the altar.[1] The people are commanded to build the altar of earth and sacrifice to Yahweh upon it. If the altar is built of stone, the stone should not be cut. One must not gain access to the altar by steps.[2] The building of an altar is a communal act. Since the law envisions numerous altars, a local cultic community would be responsible for compliance. The law applies to the construction of the altar wherever one might be made. The sacrifices commanded would be performed by each member of the cultic community.

The Covenant Code concludes with a collection of commanded observances and prohibited cultic acts: the fallow year (Ex. 23:10f), the Sabbath (12), three annual feasts (14-17), first fruits (v. 19a), and three prohibitions of specific practices (v. 18, 19b). All of these can be termed cultic regulations, although the fallow year and Sabbath are explained non-culticly.

Ex. 23:17 commands:

> Three times in a year shall all your males appear before Lord Yahweh.

The personal pronoun, 'your,' is the collective community. The same collective reference occurs in the other festival commandments (vv. 14, 15aα, 16aα, 16bα) and in the explanation of the feast of unleavened bread:

> for in (the month of Abib) you came out of Egypt. (15bα)

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[1] 20:24-26 can be considered quite old: Noth, Exodus (OTLib), in loc.; also J. J. Stamm, op. cit., pp. 304-306.

[2] The exact meaning is uncertain, but it certainly has to do with the construction of the altar.

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The *practice* or *observance* is a *collective* act. The people act as a group, a cultic community. The practice as such could be called a collective duty.

Responsibility for compliance, on the other hand, falls upon the community distributively. This is made explicit when the text commands that

> Every male of you shall appear...(v. 17)

and warns that

> they shall not appear before me empty-handed. (v. 15)

Thus, as in several collectively addressed laws in Deuteronomy, the actual party responsible for compliance is mentioned in third person. One might add that the few detailed instructions, e.g., eating unleavened bread for seven days, involve acts which individuals would perform.

The commandments of the other observances are distributively addressed. Not sowing or harvesting, or doing work on the Sabbath, are acts of individuals and show no sign of collective address. The motive clauses,

> the poor of your people (23:11b),
> 'your ox . . . the alien' (v. 12b),

conceive the party addressed to be an individual member of the people. The duty of bringing the first fruits to the sanctuary (23:19a) would likewise be fulfilled at the appropriate time by each farmer. Unlike the follow year and the Sabbath, this duty does not have a social purpose. - The prohibitions in 23:18, 19b also address the community

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distributively.[1]

To draw our discussion together, three observances are laid upon the community distributively, and the three festivals are addressed collectively. The former have followed the analogy of the primary law. The fallow year and Sabbath, in fact, have been given explanations which make them into duties to the poor and wild beasts (23:11b) and to the animals and persons under one's control (12b). The first fruits are owed to the sanctuary in an analogous way (19a). Clearly the sovereign-subject model is operative in these examples. Yahweh promulgates law to aid the poor and weak, and also to gain support for a communal institution.

The religious festivals have been laid upon Israel on a collective basis. According to the design of our models, this state-of-affairs is indicative of the suzerain-vassal model. To be consistent, we must acknowledge that these duties do have close analogies to the stipulations of a treaty.[2] They represent a major exception to the dominant tendency of the law of the classical covenant.

If the dominant tendency is in the direction of the sovereign-subject model, how can we understand the festival laws? We suggest the following: Israel, like most societies until modern times, understood itself to have a religious end fulfilled through the cultus. The society owed duties, as a society, to its deity. Those observances which the entire community celebrated together would tend to be formulated explicitly for the collectivity.[1] Even in these cases, however, actual performance remained the responsibility of the members of the society.

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[1] See the section on apodictic prohibitions above.

[2] Mendenhall, op. cit., p. 33, has a fairly close parallel to the collective demand of a feast. This is probably closer to our provision than anything from royal tradition, although kings did have inaugurations and some had annual ascension festivals in which his subjects participated.

The monarch of ancient society legislated for the cultus civilis: 1 Kg. 12:28f, 31-33, etc. When Yahweh promulgates law regulating public sanctuaries and holidays, he could well be acting in the capacity of sovereign. As the deity to whom such duties are owed, he 'breaks out' of the role of sovereign. Nevertheless, even here we could understand the festivals as the recognition and celebration of the divine sovereign. We believe that the distributive responsibility for attendance and participation at the festivals points to this interpretation of the festivals.

The Covenant Code, Decalog, Ex. 34:18-26 and Deuteronomy 12-26 do not govern the inner workings of the cultus. They impose only general lay duties and an occasional prohibition of a specific practice. This absence of technical cultic regulations suggests that the covenant was not restricted to a religious relationship between Yahweh and Israel, though of course it was that too. Covenant law is mostly civil and criminal law. The cultus was a subordinate instrumentality by means of which the people fulfilled their duties toward the divine. The Covenant Code, Decalog, and Deuteronomy have a surprisingly

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[1] The addressee in Ex. 13 (J) is structurally the same: the first born law is addressed distributively, the provision for the feast of unleavened bread is collective.

'secular,' as opposed to cultic, character.[1] The contrast with HP is striking.

The Holiness Code and Priestly Law. These traditions import masses of cultic regulations into covenant tradition and employ specifically cultic concepts. We shall first survey the addressee of the cultic law briefly and then give a more extended treatment of the sanctions attached to these laws.

H and P do not expand the radius of collective cultic duties to any significant degree. Like the Covenant Code, they have festival calendars which are addressed to the people as a whole (Lev. 23:1ff, Num. 28-29). The observances are commanded of the entire people, while the details apply distributively. Certain communal sacrifices at the festivals are also commanded.

The remainder of the operation of the cultus in these sources is treated distributively. In the Holiness Code, the laws governing the slaughter of animals (17:2-16, cp. 19:5-8) are formulated impersonally and applied distributively. Most of P's descriptions of sacrifices (Lev. 1-7) are formulated impersonally. All of them apply distributively in the sense of 'each and every case.' Leprosy (Lev. 13-14) and various other types of uncleanness (Lev. 12, 15) are governed by distributive rules. The list could go on indefinitely.

Unlike the Covenant Code, H and P occasionally impose sanctions on violators. For example, Lev. 7:25, 27, 17:4, 9, 10, 14 and 19:8 sanction cultic regulations with 'excommunication.' In Lev. 17:10, 20:3, 5, 6, God will 'set his face' against those who violate his sacral order. Numerous times it is said that the offender will have to 'bear his guilt' (Lev. 5:17, 7:18, 17:16, 19:8, Num. 9:13, 18:22). The Priest and Levite too will 'bear his guilt' for violations (Ex. 28:43, Lev. 22:9, 16, Num. 18:32). This could mean death (Lev. 22:9; Lev. 10:1-3).[1] These same sanctions were imposed upon non-cultic law in these sources. They apply distributively.

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[1] Concepts which circulated in the cultus would not necessarily have passed into the covenant traditions.

The Priestly writer did recognize the possibility of collective cultic guilt and 'wrath.' In one passage, the threat of a distributive sanction also mentions collective consequences:

> Lest you die, and lest wrath come upon all the congregation. (Lev. 10:6)

The Priesthood had the responsibility of protecting the people from the divine wrath which continually threatens the people.[2] The priests bear the people's sin (Ex. 28:38, Lev. 10:17). The Levites 'atone for' the people (Num. 8:19). If the entire people commit a sin due to ignorance, there are rites of atonement (Lev. 4:13-21, Num. 15:22-26).[3] On the day of atonement (Lev. 16) the high priest performs a ritual in which he

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[1] According to J. Milgrom, in a paper delivered at the 1968 West Coast SBL/National AOS meeting, the use of the Qal stem of mwt signifies a divine sanction. The threat of death to cultic officials regularly takes this stem: Lev. 16:2, 13; Ex. 28:43, 30:20f, Lev. 10:9; Lev. 10:6; Lev. 22:9; Num. 4:15; 4:19f; 18:3; also of layman: Num. 17:28, 18:22. Milgrom's statistics.

[2] Also Num. 1:53, 17:11f, 18:5; Ex. 12:13, 30:12, Num. 8:19, Josh. 22:17.

[3] These are parallels to the atonement of the individual's sin due to ignorance: Lev. 4:1-12, Num. 15:27ff.

> confesses over (a live goat) all the iniquities of the people of Israel, and all their transgressions and all their sins. (v. 21)

The Wellhausen school attributed the awareness of individual and collective guilt in P to the experience of the exile.[1] G von Rad probably speaks for a majority of current scholars when he says:

> The strong emphasis laid upon the rites for atonement, which by the way can be seen in growth even within the strands of P, is characteristic of it alone. Such rites were not unknown in the history of the pre-exilic cult, but they certainly did not then occupy such a dominant place as they have in P. The reason for this change has been sought, and rightly so, in the broken and anguished mood of the exilic and post-exilic periods.[2]

P's doctrine of atonement, thus,is not believed to be a new creation, but simply an expansion of earlier thinking.

If early Israel possessed a concept of collective guilt which required periodic atonement to avert collective sanctions, our thesis that accountability in the law of the classical covenant was distributive would have to be seriously qualified. The problem is that the claim that there was such a concept of collective guilt is hard to test, for our literature is silent on the question until P. The covenant traditions do not employ such concepts. This fact at least demonstrates that this set of ideas did not 'ground' the covenant. As far as we can judge, the covenant was formulated as the framework of a legal community with the principle of legal accountability.

We may be able to say more than this. The few early narratives in our possession that treat the cultus (Judg. 17-18, 1 Sam. 2:12-16, 22-25, 27ff, 2 Sam. 6:6ff) do not show any awareness of the possibility of collective sanctions for violation of law or holiness.[1] There are no divine sanctions applied or even threatened against the worshipping community around the sanctuary, let alone against the entire people of Israel. It seems logical to conclude that the presuppositions for atonement for collective guilt did not exist when these narratives were composed. If acts of ritual atonement were performed at this early period, which they well may have been, they may have been conceived of according to the conceptuality so common among world religions that the holy place has been made 'secular' by contact with the people and requires periodic 'cleansing.'[2]

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[1] Wellhausen, Prolegomena, pp. 108ff, and elsewhere.

[2] Old Testament Theology I, p. 269.

Let us return to P. This source maintains the seemingly contradictory beliefs that the divine wrath continually threatens the community and yet the covenant between Yahweh and his people is unconditional. These seem to be held together by the belief that Yahweh has set up effective mechanisms for the protection of the people and the limiting of guilt to individuals and small groups. The threats of divine wrath are portrayed in terms of the mechanisms, priesthood and ritual, to overcome them. Since Yahweh himself is the guarantee of the unconditionality of the covenant, the law is not a system of collective duties imposed upon the people to protect it from his wrath. By distributing accountability and providing means of atonement,

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[1] See Excursus.

[2] Cp. J. R. Porter, op. cit., pp. 369-372.

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wherever exact accountability cannot be determined, Yahweh protects his community through his law.

P has expanded the cultus into the basic framework of the people, whereas earlier it was subordinate to the covenantal order encompassing the entire society. In P Yahweh governs the people through the cultus, whereas earlier it was an institution set up by him so that the people might fulfill their religio-cultic end and provide for the needs of the poor and defenseless. The sovereignty-subject model was retained by P, but it has a new institutional structure and a new conceptual framework.

The Addressee of the Deuteronomic Cultic Regulations. Our task here is to determine whether the 'thou' addressed in the cultic regulations of the Deuteronomic Code is an individual or the community as a whole. We have found that the court is understood in Deuteronomy as an instrument of the people to fulfill its duties to Yahweh. We must determine whether the cultus was likewise an instrument for the fulfillment of collective duties. This would appear to be an obvious development in view of the collective dimensions already present in the classical covenantal traditions.

The following table lists the Deuteronomic cultic regulations, the Biblical parallels, and the addressee of each:

Topic	Addressee	Parallels
Sanctuary (12:13f; 15-24)	coll; distr.	Ex. 20:24-26
Sacrificial Gifts (12:26f)	distr.	Ex. 20:24
Dietary Prohibitions (14:3, 21a, 21b)	distr.	Lev. 11:2ff, 20:25; 17:15, Ex. 22:30, 23:19b
Tithe of crops (14:22-29)	distr.	Lev. 27:30-33, Num. 18:21-32

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Observance of שמטה(15:1-11)	distr.	Ex. 23:10f, Lev. 25:1-7
Dedication of first born (15:19-23)	distr.	Ex. 22:29, 13:11f, Num. 18:17f
Three Annual Festivals and Passover (16:1-17)	coll/distr	Ex. 23:14ff, Lev. 23, Num. 28f, Ex. 12:1-20, 21-27, 13:3-10
Rights of Levites (18:1-8)	coll/impers.	Lev. 7:32-34, Num. 18:1ff
Payment of Vow (23:22-24)	distr.	Num. 30:2ff
Leprosy (24:8f)	distr.	Lev. 13-14
Offering first fruit (26:1-11)	distr.	cp. Ex. 22:28a, 23:19a, Nu. 18:12f
Payment of Tithe (26:12-15)	distr.	

A glance at the column recording the addressee indicates the surprising fact that the cultic regulations have not been addressed to the people collectively, with the exception of a few key provisions.

The establishment of a central sanctuary (Dt. 12:13f) requires a collective act of acknowledgment of Yahweh's choice of that place alone:

> In the place where Yahweh has chosen in one of your tribes, there you shall offer your burnt offerings and there you shall do all that I am commanding you. (v. 14)

The proto-type of this provision (Ex. 20:24ff) is concerned with how the altar is to be made, while Deuteronomy is concerned with where sacrifices are to be made. This shift involves collectivization (cp. 'your tribes'), for the author of Deuteronomy seeks to get the entire people to recognize only one sanctuary.

However, the concession of secular sacrifice (vv. 15-24) which accompanies the central sanctuary provision is formulated, despite the numerous collective clauses, distributively. Likewise, the offering of sacrificial gifts at the legitimate altar (vv. 26f) is addressed to the laity distributively. The other cultic duties of tithing crops, observing the שמטה and dedicating the first born of flock and herd

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are also formulated as duties of each Israelite, according to vocation and capacity. The ritual accompanying the offering of first fruits (26:1-11) and triennial tithe (26:12-15) are performed by individuals. The duty of paying a vow belongs to an individual (23:22-24) and the leprous person himself must follow the directions of the priest (24:8f). Compliance with dietary provisions (14:3,(4ff), 21a, 21b) would be the responsibility of each household.[1]

Dt. 16:1-17, like its parallels in the Covenant Code, H and P, commands the entire community to observe the major festivals.[2] There are certain new collective provisions, such as the requirement that the Passover be celebrated at the (central) sanctuary (16:5f) rather than at home. On the other hand, many of the detailed instructions, such as the command to rejoice with one's family, slaves and the needy (16:11, 14), add a distributive, primary law stress.

Dt. 18:1-8 enunciate the rights and duties of the Levitical priesthood. The Levite and the items which he claims are discussed in third person. The laity are addressed in vv. 4f.[3] V. 5 is completely collective, whereas v. 4 fuses distributive and collective.[4] The Levites own these rights because Yahweh has set them apart as his

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[1] On these verses, see Daube, Studies, pp. 83f. V. 21c was once a prohibited sacrifice, but now it is understood as a dietary prohibition: ibid.

[2] It adds Passover: see Driver, Deuteronomy, (ICC), in loc.

[3] The 'thou' in the Deuteronomic Code is a member of the court and militia, a layman in the cultus.

[4] The whole community is to do so as a group, but the actual fulfillment would have been distributive: each bringing what was due from him.

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ministers (18:1f, 5).

To conclude, only the recognition of the central sanctuary and, to a lesser degree, the support of the clergy have been addressed to the people collectively. Observance of the major festivals also has a certain collective dimension, one recognized long before Deuteronomy and not significantly extended by him. The duties the lay community owe Yahweh were imposed, as in the classical tradition, on the members of the community severally. The author has not portrayed the cultus as an instrument of the people to fulfill collective duties to Yahweh. The religious duties belong to each Israelite. Yahweh is the creator of the cultus, in that he chose the place, and the priesthood, in that he chose the tribe. The collective demands simply require all Israelites to recognize and support his institution.

Paranesis on the Deuteronomic Cultic Regulations. The cultic regulations have been expanded extensively by commands, directions, motive clauses and general admonition. It is our task to determine whether the 'thou' addressed in this material is an individual Israelite or the community.

The following table lists the Deuteronomic cultic regulations and types of paranetic material attached to them:

Topic	Y. chose	Instruct	Items	Coll. Det.	Needy	Assure	Sanct.
Sanctuary (12:13ff)	14,18,21	15f,20,21 22,23,24	17,18 21	15,17,18 19,20	19	(25)	
Sacr. Gifts (14:26ff)	26	26	27			(28)	
Diet. Proh. (14:3ff)		21a		(21a)			
Tithe(14:22ff)	23,24ff	24-6,28f	23,26f	27,28f	27,29	29	
Release(15:1ff)		2-3,(7ff)		(4-6)	7f,11	(4ff)10	9
First Born (15:19ff)	20	21,22,23	19,20				

Topic	Y. chose	Instruct	Items	Coll. Det.	Needy	Assure	Sanct.
Festivals (16:1ff)	2,6,7,11 15	3,4,5f, 7f,10,15	11,14	1,3,4a 5,6,12	(11,14)	(10,15)	
Levites (18:1ff)	(1f,5) 6-8	3,6-8	4	4,5			
Vow(23:22ff)		23					22
Leprosy (24:8f)		8		(9)			
First Fruits (26:1ff)		2ff	11	1,(3,5ff)			
Tri. Tithe (26:12ff		12ff		12,(15)	12,13a	(15)	

A significant portion of the expansions deal with the place which Yahweh has chosen and the adaption of the law to this new situation. These duties once belonged to a society with many local shrines. With the introduction of the central sanctuary, each duty had to be explained in terms of it and concessions, such as secular slaughter and conversion of the tithe, had to be made.[1] It is this practical problem of explaining how the duties should be fulfilled which may have influenced the law-giver toward maintaining the distributive address. Each layman had to be told how he was to fulfill his duties to Yahweh in the light of this new situation.

Other revisions of cultic duties also demanded instructions: The law of the tithe was revised to make it into a tax for the Levite and needy (14:28f, 26:12ff). The celebration of sacrificial meals was to involve the Levite, alien, widow and orphan (12:19, 14:27; 16:11, 14). The שמטה was revised from an agricultural practice (a fallow year) into a commercial-financial practice of debt-remission and this revision required instruction and examples.

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[1] Originally argued by F. Horst, "Das Privilegercht Jahwes", Gottes Recht: Gesammelte Studien zum Recht im Alten Testament ("Theologische Bücherei," 12; Munich: Chr. Kaiser Verlag, 1961), summarized on pp. 153f.

We have entitled one kind of paranetic expansion 'list of items'. Under it we include three series: the types of sacrificial gifts required of each Israelite, the inventory of possessions (grain, wine, oil, herd, flock) in the hands of an average Israelite, and the list of members of the household. These were apparently stock phrases used to fill out the law. They are important to our concern because they give the law a distributive orientation.

On the other hand, there are stock phrases which give the duties a communal, even collective mood. We have termed these 'collective determinations.' They consist of phrases in which the 'thou' or 'thy' addresses the people. The most common is

within thy town / land / territory.

We found the same type of clause in several of the primary laws. It fits tolerably well with address of members of the community, because each person could recognize himself as a member of a people. Passages like 26:1 with a temporal clause describing the conquest are more strictly collective. The other common collective determination is the reference to Israel's Egyptian sojourn and deliverance. These are concentrated in 16:1-20, and all but one (v. 12) explain the ritual.[1]

We have only a few motive clauses in the strict sense. Dt. 14:29

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[1] V. 12 is like those treated above under apodictic law and casuistic primary law. -Dt. 15:4-6 belong here too, but they are not well integrated into the passage and probably are an interpolation.- Dt. 24:9 refers to particular incident, Miriam's leprosy, in the sacred history, simply as an archetypal case of leprosy.

and 15:10 assure the addressee of blessings if he obeys the provision. 14:29 is too indefinite to categorize as either distributive or collective, while 15:10 is distributive. Dt. 12:25, 28, also assure blessings. Both are clearly addressed to the people. Neither clause, however, is connected to the specific provision, but to a general admonition to obey the law. Dt. 16:10, 15 assess dues on the basis of the blessing one has received. Dt. 15:9 and 23:22 warn the addressee of guilt for non-compliance with the respective duties.

The language of confessional praise in Dt. 26:3, 5-10 recalls the paranetic language of the Code. Each Israelite offering his first fruit confesses Yahweh's saving deeds for his people and connects his own prosperity to the divine gift of the land.[1] When an Israelite presents his triennial tithe (26:12-15), he ends his confession of innocence with a request for Yahweh's blessing upon the community. Each member of the community receives his personal blessing by participating in the community's sacred history which brought it about, and each member is responsible in part for the continuation of the blessing on the people.[1]

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[1] G. von Rad, "The Form-Critical Problem of the Hexateuch," Essays, pp. 3ff, 41ff, argues for the high antiquity of Dt. 26:5-10 in its setting. L. Rost, "Das kleine geschichtliche Credo," Das kleine Credo und andere Studien zum Alten Testament, (Heidelberg: Quelle & Meyer, 1965), pp. 11-25, raises some serious linguistic and formal objections to von Rad's thesis. On balance, we must admit that the author of Deuteronomy has had his hand in on the composition of the present text, though we have no reason to believe, as Rost does, that the form is a late creation. We already find it in J (Ex. 3:7f). The association of the credo with 'first fruits' is probably no older than Deuteronomy. Wildberger, Eigentumsvolk, pp. 41ff, among others disputes the association of the credo with "Pentecost." We must determine its origin and setting from a more precise formal analysis than von Rad has provided: cp. Westermann, Praise of God, pp. 114f. We do not propose to do so here.

To summarize, the people of Israel as a whole must recognize Yahweh's choice of a sanctuary and priesthood, and celebrate his festivals. Each of these has a collective and distributive aspect. On the whole the law-giver is concerned with the fulfillment of distributive duties, i.e., the duties each layman owes as a member of the people. Each member of the community receives a blessing by sharing in Yahweh's blessing of the people. The religious duties may have been 'communalized' to a certain extent, but they were not 'collectivized.' The layman knows himself to be a part of a community and to share its fate, but he understands himself to be personally accountable for the fulfillment of his religious duties. The model, thus, remains essentially that of a subject who is responsible for the fulfillment of his duties as a member of an institution of his society.

EXCURSUS: CULTIC LAW IN EARLY NARRATIVES

We obtain very little knowledge of the concepts which circulated in the cultus from the covenant traditions prior to the Holiness Code and Priestly source. Several narratives can supplement our information. Three narratives in particular give us some glimpse into early ideas of cultic responsibility and sanctions: Judg. 17-18, 1 Sam. 2:12-16, 22-25, 27ff, and 2 Sam. 6:6ff.

Judges 17-18 tell the story of how the sanctuary at Dan was established.[2] This is the kind of situation which Ex. 20:23-26 were meant to regulate. In fact, Micah's private chapel probably also came under their purview. The narrative records a series of violations of the prohibition of images (Ex. 20:23, etc.). The participants in the story seem to be oblivious to the fact that they were violating Yahwistic law, indicating either the absence of such a prohibition at the time or the lack of conviction among the people. In any case, the author of the narrative is aware of the impropriety of images at a Yahwistic sanctuary.[1] He accounts for the Ephraimite Micah's heterodoxy as a sign of the time:

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[1] On the tradition behind this passage, cp. vRad, "'Righteousness' and 'Life' in the Cultic Language of the Psalms," ibid., p. 244. The association of the oath of innocence in this passage with the request of communal blessings is probably Deuteronomic.

[2] M. Noth, "The Background of Judges 17-18," Israel's Prophetic Heritage, pp. 68-85, offers as good an account of these chapters as anyone.

> In those days there was no king in Israel; every man did what was right in his own eyes. (17:6)

Whether he thought Micah knew that he was heterodox or not is not discernible, but it is clear that he blamed the absence of a king for the situation. A king would enforce uniformity of cultic practice.

The most striking feature of the narrative, from our point of view, is both the actors' and author's 'ignorance' of divine sanctions. No one considers the images to be a threat either to the entire people or to any group. Micah probably believes that his private chapel, heterodox as it was, will bring him Yahweh's blessing (cp. 17:13). The Danites were not threatened with divine sanctions for their heterodoxy, all the more unusual in view of the way they obtained their images and priesthood.[2] It is doubtful that the author considered Micah's loss of his image and priest to have been divine punishment. The author seems to have looked on the whole affair as evidence of pre-monarchial anarchy. According to him, a king was not needed so much to protect the people from divine wrath for cultic violations as to give its cultus a more seemly uniformity.

In the narrative recorded in 1 Sam. 2:12-16, 22-25, 27ff,[3] the sons of Eli violate the custom at Shiloh regarding when and how the priests took their share of the sacrifices. The author comments:

> Thus the sin of the young men was very great in the sight of Yahweh, for the men treated the offering of Yahweh with contempt. (2:17)

Their sin was understood, nevertheless, in a completely distributive manner. There is no hint of a collective danger, not even to those at the sanctuary, not to mention the entire people of Israel. If Shiloh was a 'central sanctuary,' as some have averred, the complete absence of collective sanctions is even more remarkable.[4] The divine sanctions

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[1] *Ibid.*, pp. 71-73. - The image in this text is of Yahweh.

[2] The reference to Shiloh is ostensibly to date how long the images stayed at Dan. The text in no way suggests that the fall of Shiloh was due to this or to any other 'sin.'

[3] For literary analysis: H. P. Smith, *The Books of Samuel* (ICC) (New York: Charles Scribner's Sons, 1929), pp. xviii-xx.

[4] In favor of Shiloh being a central sanctuary: H. J. Kraus, *Worship in Israel*, (Oxford: Basil Blackwell, 1966), pp. 173ff; contrast R. Smend, Jr., *Yahweh War and Tribal Confederation*, pp. 95f.

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announced by the unnamed prophet take effect against the perpetrators and their family (vv. 27ff).

2 Sam. 6:6ff report an incident of divine wrath. One of the persons transporting the ark to Jerusalem, Uzzah, touched it to steady it:

> And the anger of Yahweh was kindled against Uzzah; and God smote him there (because he put forth his hand to the ark) and he died there beside the ark of God. (6:7)

David attributed the death to divine displeasure with his plan to bring the ark to Jerusalem (vv. 9f). When Obed-edom reported being blessed by Yahweh because of the ark's presence on his property, David surmized that Yahweh was no longer angry and proceeded to bring the ark to Jerusalem. Whatever the reason, Yahweh's wrath struck down Uzzah on contact with the ark. Likewise the presence of the ark in Philistine places had brought plagues (1 Sam. 5f). It was the ark's presence at Obed-edom's house that brought blessings. These point to a conception of divine sanctioning, whether for good or ill, operating through contact with a holy object. It was radically localized. The same type of belief is found in Ex. 20:24:

> In every place where I cause my name to be remembered I will come to you and bless you.

Likewise, when 'the anger of Yahweh was kindled,' it probably took effect at the place where sacred and secular came into contact.[1]

To summarize, the three early narratives of cultic violations show no evidence of an all-Israelite, or even local communal, responsibility before Yahweh.

Other Institutions Regulated in Deuteronomy

The Decalog, Covenant Code, Yahwistic law, the Holiness Code and Priestly law have institutional regulations only for the court and the cultus.[2] The covenant was the framework of the tribal league and its law was administered by the league institutions, the cultus and judicial system.

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[1] For example, Num. 8:19 appears to be a collectivization of this understanding. In our opinion, atonement for the sanctuary would have involved cleansing it of contact between sacred and secular.

[2] There is one minor exception that we know of: Num. 31 treats the distribution of booty so that it can prescribe the share belonging to the cultus.

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The Deuteronomic Code has regulations for three other institutions, the militia, the monarchy and prophecy. Each of these institutions were, prior to Deuteronomy, independent and self-regulating. The 'militia' originally consisted of the able-bodied men of the area in which there was conflict with non-Israelites. Military actions grew gradually in size until finally all the able-bodied men of 'Israel' were mustered under Saul.[1] Henceforth, the militia was the fighting arm of the people. Deuteronomy formalized this unification of tribal league and militia by incorporating its internal rules into the covenantal law.[2]

Two institutions which appeared after the tribal league had ceased to be a functional political structure, viz., the monarchy and prophecy, are also included in Dt. 12-26.[3] Each institution had its own origin and foundation. Deuteronomy has drawn all the institutions of the people into one framework and subordinated them to the collective good.[4]

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[1] R. Smend, Yahweh War and Tribal War and Tribal Confederation, pp. 13-25.

[2] Ehrhard Junge, op. cit., pp. 1ff, 28ff, followed by von Rad, Studies, pp. 60f, argues that the militia was revived under Josiah after centuries of eclipse by the professional troops of the monarch. N. Gottwald, "'Holy War' in Deuteronomy: Analysis and Critique," The Review and Expositor 61/4 (1964), pp. 296-310, doubts that Junge's texts can be dated as precisely as he claims and therefore the case for a 'revival' during this period is not well-founded.

[3] There are serious problems regarding the originality of either of these passages. Each is based upon a 'literary allusion'. We are certain that 17:18-20 are secondary, since they refer to Deuteronomy as a completed 'book of Torah.' 17:14-17, though based upon a literary allusion, which is characteristic of Dtr. in Dt. 1-11, are sg. address and do seem to represent the Deuteronomic view. 18:15-22 are poorly constructed, not consistently in address style, and do not impose a collective duty.

[4] Observed by von Rad, Gottesvolk, pp. 49-58.

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The Addressee of the Deuteronomic Militia Regulations. Again it is our task to determine whether the 'thou' addressed in the Deuteronomic law is the people or a member of it. By gaining the answer to this question we shall be able to detect how the author of Deuteronomy interpreted this institution. We shall, in particular, be able to extend our model research further by determining whether the militia was understood to be an instrumentality of the people for fulfilling its duties to Yahweh or an agent of Yahweh's governance of Israel.[1] We shall include motive clauses as well as law in our discussion.

The following table lists the Deuteronomic regulations governing the militia, the addressee and the motive clauses:[2]

Topic	Addressee	Motive Clause
Exemptions (20:1-9)	coll/impers	exodus
Surrender and victory Terms (20:10-18)	collective	delivery formula/ conquest
Trees in Seige (20:19f)	collective	humanitarian concern
Camp Cleanliness (23:10-15)	coll/distr.	'God in midst'
Amalek (25:17-19)	collective	wilderness

The first four passages begin with similar superscriptions addressed to the people of Israel:

> When you go forth to war against your enemies...(20:1)
>
> When you draw near a city to fight against it...(20:10)
>
> When you beseige a city for a long time...(20:19)

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[1] Actually, the latter may never have existed. We simply outline it as a possibility on analogy to the court and cultus of the classical covenant. Since the militia was not institutionally related to the tribal league, it had its own framework of meaning apart from covenant.

[2] There are no Biblical parallels in law.

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When you go forth against your enemies and are in camp...(23:10)

cp. When Yahweh...has given you rest from your enemies...(25:19)

Simply on the basis of these superscriptions we can surmize that the militia was the people of Israel at war. There is no conscious interval between them.

The apodosis of each of these superscriptions commands the people to take a certain attitude or adopt a certain policy or practice. Dt. 20:1 commands the people not to fear the enemy, though it be much stronger than Israel, for Yahweh, who has demonstrated his power in the exodus, is on its side. Vv. 2-4 are from the hand who employs the plural second person pronoun. Vv. 5-7 prescribe the proclamation of exemptions from military service. V. 8 adds the exemption of a man who is fearful or fainthearted on the grounds that he will destroy the morale of the army. It is this latter exemption which embodies the concern of the superscription.[1] The prescription of the proclamation of exemptions is formulated impersonally.

Dt. 20:10 commands the people to offer terms of surrender prior to beseiging a city. V. 11 prescribes the terms of peace. Vv. 12-14 prescribe the terms of victory. V. 15 limits the application of vv. 10-14 to foreign cities and vv. 16f prescribe a 'scorched earth' policy for the conquest.[2] The addressee throughout is the people of Israel,

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[1] Probably the reason for its inclusion in Deuteronomy. For the author of Deuteronomy, courage in the face of the enemy has become a legal duty!

[2] While vv. 10-14 may have been in effect in the militia - in monarchical times - vv. 15-17 are pure Deuteronomic conquest-theory. Cp. von Rad, Deuteronomy (OTLib), in loc.

strictly that segment of it fighting a war in its behalf. The things prescribed here are certainly to be understood as collective duties owed to Yahweh. This is especially true of the rule that all the peoples of Canaan and their cattle be put under the *herem*.[1]

Dt. 20:19-20 commands the people of Israel not to cut down domestic trees to use in a seige. Again the party personally addressed throughout is the army acting as a proxy of the people.

Dt. 23:10-15 have a superscription addressed to the people,

> You shall keep yourself from every evil thing,

and motive clauses which give a collective rationale:

> For it is Yahweh your God who moves about in the midst of your camp to deliver you and to hand over your enemies to you. And your camp shall be holy so that he will not observe anything indecent among you and depart from you. (v. 15)

The actual procedures (11f, 13f) prescribed for keeping the camp clean govern acts of individuals. The 'thou' of v. 10 is the collective, while the procedure is described in third person. The 'thou' in vv. 13f is an individual.

Dt. 25:17-19 command the people of Israel to exterminate the Amalekites for their attack on it during the wilderness trek.

To conclude, the militia, like the court, is treated in Deuteronomy as an instrumentality of the people. Its posture and policies and practices are duties owed to Yahweh. One set of duties, *viz*., camp cleanliness, is supported with collective sanctions for non-compliance. The extermination of the Canaanite peoples was a collective duty of great importance to the author, who understood this to be the way to combat the temptations to apostasy (so Dt. 7:1ff). Failure to fulfill this demand would lead to apostasy and Israel's extermination. The militia has become the people of Israel at war and its rules, revised somewhat by the author, have become collective duties.

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[1] The explanation in terms of apostasy (v. 18), though motivating the author of Deuteronomy, was added by the plural hand.

The Addressee of the Deuteronomic Regulation of the Monarchy. The monarchy was an institution in which the people would participate as subjects. There is one passage (17:14-20) which permits the people to have a king under certain conditions. The 'thou' is the people, while the king is mentioned in third person. The people are bound to two conditions in the elevation of a monarch:

(1) He must be chosen by Yahweh;

(2) He must be a member of the people of Israel.[1]

The people assume the duty, then, to select a monarch with these qualifications. The monarch himself is forbidden certain violations of his office.[2]

The Addressee of the Deuteronomic Regulation of Prophecy. The passage describing the office of prophet (18:15-22) is loosely formulated and problematic. Most of it is in first person Yahweh (vv. 16-20).

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[1] The theory of royal legitimacy as deriving from divine designation and popular acclamation was a constituent element of Israelite royal tradition: cp., e.g., Noth, "Office and Vocation," *Essays*, pp. 238ff. The rule that the king should be an Israelite was probably traditional, but its actual source is unknown.

[2] Rabast, *op. cit.*, pp. 10f, hypothesizes that there was a pre-Deuteronomic exemplar of the king belonging to the installation rite from which this series derives. Cp. Ps. 101. However, these prohibitions are much too ironical and sarcastic for such a setting. They are obviously related to 1 Sam. 8:11-18, a diatribe against monarchy.

Much of it is devoted to an aetiology of the office (vv. 16-18).[1] All things considered, it probably does not derive from the author of Deuteronomy.

The 'thou' addressed throughout is the people, and the prophet is mentioned in third person. Although the office was created at the request of the people and with divine approval, the prophet receives his authority from God. The people do not select a prophet, but must recognize the one sent by Yahweh. In vv. 19, 20 we have two distributively formulated 'laws': Anyone who refuses to heed the prophetic message will be punished by God, and any prophet who speaks falsely in Yahweh's name or speaks in the name of another God shall be put to death. Vv. 21f attempt to provide tests of true and false prophecy.

The people do not strictly speaking receive collective duties in this pericope.

Summary and Conclusions

We set out in the last two chapters to determine the addressee of the law in the various Biblical legal collections and thereby to determine which model was operative in each. Our chief dividing line was drawn between non-Deuteronomic and Deuteronomic law. The Covenant Code and the law of the Elohist and Yahwist sources and the Deuteronomic Code were examined exhaustively, while the Holiness Code and Priestly law were treated selectively.

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[1] We have an historical allusion which has been expanded into a 'law of the prophet' in first person Yahweh. It is possible, of course, that this latter had a pre-history and was simply taken up without adequate assimilation into Deuteronomy.

The results of our rather lengthy and methodical investigation of the addressee of the law can be represented in a table:

Type of Law	Personal Distributive	Impersonal Distributive	Collective
Apodictic	cl/dt		(cl)dt
Death Penalty		cl	dt
Casuistic Remedial		cl(dt)	dt
Casuistic Primary	cl/dt		
Court Rules	cl		dt
Cultic Rules	cl/dt		(cl)/(dt)
Militia			dt
Monarchy			dt
Prophecy			dt?

This table tells only the surface of the story, but it does make the pattern visible. The law of the classical covenant tradition governed the acts of the members of the society. It did not impose collective duties for which the community would be held accountable. According to the design of our models, the classical law can be best understood as the law of a sovereign for his subjects.

The law of the Deuteronomic covenant was distributed between distributive and collective address. The community as a whole owed duties to Yahweh for which it was accountable. Most of these duties were to be fulfilled by institutions, the court and the militia, acting as instrumentalities of the people. The Deuteronomic law also governed the acts of the members of the society. The collective duties imply the suzerain-vassal model, while the distributive law retains the remnants of the classical covenant model.

To conclude these chapters, let us draw together our results from their scattered locations into a portrayal of the structure of covenantal order in the classical and Deuteronomic law.

The Model Operative in the Classical Covenantal Law. We have treated the Decalog, Covenant Code, Yahwistic law, Holiness Code, and Priestly law as representative of the classical legal tradition, although we admit that H and P especially are temporally late and not entirely representative of the older legal traditions. The latter are classical to the extent that they agree with E, J and the Cov. Code. over against D. The classical tradition must have achieved its basic outline prior to the monarchy, for the latter would have eclipsed the tribal league and forced the covenant progressively out of concrete reality into the realm of theory and memory.

In the law of the classical covenant tradition, Yahweh promulgated law to protect the social order from the violations of its members and to repair the breaches made by violations. Yahweh was the 'court of last resort' and, by deciding cases without precedent, legislated for the community (exp. Ex. 18:13ff). The day to day judicial process was administered by the courts at each place. The members of these courts were directly responsible to him for their administration of justice.

The basic purpose of apodictic law was to protect the society from breaches. It prohibited acts before they occurred.[1] Forbidden were acts where Yahweh was the injured party, where the neighbor was the injured party, and where there was no victim but the social order itself. To a much lesser extent, apodictic law implemented duties to Yahweh and to the elders of the community.[1]

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[1] Gerstenberger's observation, "Apodiktischen Rechts", pp. 25f.

The first commandment protected Yahweh's sovereign authority within Israel. Every member of the community had to recognize one authority in the community. Yahweh's claim to be Israel's only God was the basis of the legal as well as the cultic order. To recognize another God would be to undermine Yahweh's sovereignty. The community collectively had to recognize the sovereignty of Yahweh in order to be a community. In so doing, it made recognition of him alone as God binding over every member of the community.

The law of a legal community must provide for sanctions and composition in case of violation. The threat of sanctions has a certain protective effect but the primary purpose of sanctions is to repair the social order. Retaliation has, throughout the history of law, been considered the way to restore order for major and even minor violations. Literally it preserves the order by satisfying the need of justice, of reciprocity, felt by the injured and the society at large. In Israelite law, the death penalty was imposed upon persons who violated Yahweh's sovereignty, committed serious aggressions against others, or transgressed taboos.

Much of the remedial law of the Covenant Code offers terms of composition with and without compensation. When a person suffered personal harm or harm to his property or possessions, he sought redress through the court. He would receive restitution and damages from the guilty party. Composition was awarded for unintentional as well as intentional damages, as it is in most legal systems.[1]

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[1] See above, section on apodictic law in the classical covenantal tradition.

Not all law protects society from violations and imposes sanctions when they occur. There are legal situations which must be governed without reference to violations. All remedial law presupposes a system of _primary rights and duties_ from which remedial rights and duties derive. Israelite law enunciated primary rights and duties only in special situations, e.g., where one party was much stronger than another and had the power to exploit the weaker party without redress. This type of law tended to be formulated to appeal to the social conscience of the owner of duties.

The law requires _institutions_ which implement its duties and enforce its sanctions and settlements, and these institutions must be regulated in law. In the Biblical legal collections, the _court_ which administered the law came under its scrutiny. Each judge was accountable to Yahweh for the justness of the judicial process. The court was an instrument of Yahweh's administration of the community. He himself, through an intermediary, is the supreme judiciary as well as promulgator of the law.

The people of Israel formed a _religious community_. Through the cultus they fulfilled obligations to their deity. Some of these duties were addressed to the entire people. Although formally these would suggest the suzerain-vassal model,[1] in fact the divine law-giver probably acts as a sovereign who maintains the *cultus civilis*. The cultus thereby becomes an institution of the covenant, a formal recognition and celebration of the divine sovereign.

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[1] See above, section on casuistic remedial law in the classical covenantal tradition.

The duties the community owed Yahweh were not collectively sanctioned. In fact, in the older narrative traditions of the Old Testament there is little evidence that violations of holiness resulted in any danger to the entire people. In P, there are collective dangers, but these are overcome by mechanisms set up as a part of the covenantal order.

The Model Operative in Deuteronomic Law. The Deuteronomic interpretation of the law corresponds to its interpretation of the covenant as a whole. The law is imposed upon the entire people as a system of collective duties owed Yahweh. Yahweh plays the role of a suzerain who binds his vassal to certain duties to him. To be sure, much of the Deuteronomic law retains the distributive addressee of classical law. D. N. Freedman offers a plausible explanation of how these disparate addressees could co-exist:

> The emphasis here is on human obligation and the consequences of human behavior for the maintenance of the covenantal relationship. While the commandments are addressed to the individual and require individual compliance, it is the community which is answerable to God for the actions of its members. Only in rare instances does God deal directly with covenant violators. The

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[1] So Gerstenberger, "*Apodiktischen Rechts*," p. 108; "Covenant and Commandment," *op. cit.*, pp. 47f.

> community is the legally constituted agency of his judgment. Thus, each citizen has a dual responsibility under the terms of the Covenant: to observe the stipulations as they apply to him personally and to his family and to participate in the orderly administration of justice and equity, thus sharing the community's responsibility before God. How the Israelites, singly and together, discharge their dual obligation will determine the fate of the nation. Adherence to the conditions of the Covenant means that the society as a whole, and especially through its executive and judicial apparatus, upholds the covenant pattern, enforces its terms, and effectively restrains and punishes evildoers. Individual violations of the stipulations of the Covenant became a threat to the stability and survival of the covenant community only when they are of such a grave nature or so widespread that the authorities cannot deal successfully with them or when the corruption extends to the governing body itself...[1]

Freedman's remarks are meant to apply to all the covenant traditions, and specifically to the Decalog. Our findings indicate that his description applies only to the situation in Deuteronomy, but it describes D quite well.

Freedman notes that there was a "dual responsibility" within the covenant, as private citizen and public official. The author of Deuteronomy addresses some of his law, expecially the law governing primary rights and duties, cultic duties and minor social violations, to the members of the community distributively and the rest to the people collectively. The collective duties were primarily judicial, the administration of justice, precisely in line with Freedman's suggestion. The community was also called upon to restrain certain practices and to prosecute war according to a sacral pattern.

Freedman also provides the principle of division between distributive and collective law which seems to be operating in Deuteronomy. Major offenses, those sanctioned with the death penalty particularly,

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[1] *Op*. *cit*., pp. 427f.

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are "a threat to the stability and survival of the covenant community" and therefore formulated as collective duties of enforcement and supported by motive clauses explaining the collective purposes served by the application of sanctions. The author of Deuteronomy is also deeply concerned that officials "deal successfully with" the offenses, even to the extent of calling out the militia against a city (13:13ff), and that "the corruption" not "extend to the governing body itself."

On the other hand, the fulfillment of duties to God and the neighbor, expecially the disadvantaged, was required of the members of the community. Although such matters were important in their accumulative effect, the violation by one person did not have a collective effect. Likewise, the violation of custom and taboo was a serious danger only in its accumulative effect. In these cases, when sanctions were mentioned, God deals "directly with covenant violators."[1]

As a religious community, Israel was commanded to recognize Yahweh's choice of a sanctuary and priesthood and to celebrate the annual festivals. Here the reason for a collective addressee was due to the need of a community-wide act. They involved policies and practices of the community acting together. The actual enunciation of duties in relationship to the cultus was distributive.

The Deuteronomic covenant does not correspond precisely to the suzerain-vassal model because there were odd-making factors affecting

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[1] There are some deviations from the pattern described. The prohibition of self-mutilation and perhaps against eating blood are not collectivized. Some of the remedial law was not collectivized into duties of enforcement.

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it too. The covenant duties do not correspond in content, or style, to the provisions of a treaty. Deuteronomy's law was drawn from the tradition of a legal community governing the relations between members of a society. The collectivized law simply imposes duties of enforcement, and so forth, upon the community. It is a reformulation of the common legal tradition.[1] The distributive law has even less of a place in a strict suzerain-vassal framework.

The reader may have felt a certain inappropriateness to the application of a legal conceptions to Deuteronomy. With von Rad, one gains the impression that "the most elementary difference between the Book of the Covenant and Deuteronomy...lies in the fact that Deuteronomy is not divine law in codified form, but preaching about the commandments..."[2] Our evidence points in the same direction, for the collectivization of the law had a rhetorical rather than legal effect. The law remained essentially untouched in content or legal technique. By collectivization the author sought to enlist every member of the community in support of the covenantal order.[3] The suzerain-vassal

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[1] It is worth noting that Deuteronomy's viewpoint, viz., from the community's standpoint, was not the only one in the ancient world. Codex Hammurabi takes the standpoint of the injured party in the epilog:

> Let any oppressed man who has a cause come into the presence of the statue of me, the king of justice, and then read carefully my inscribed stela, and give heed to my precious words, and may my stela make the case clear to him; may he understand his cause; may he set his mind at ease! (Reverse xxv, 1-20)

[2] Studies, p. 15.

[3] von Rad, in his early study of Deuteronomy, Gottesvolk, pp. 17f, observed the 'communalization' of the addressee in the law and motive clauses and contrasted it with the Covenant Code. He subsumed his observation under the interest of the book in the nation, its nature and destiny.

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model itself was a motivational device, whereas the sovereign-subject covenant was the actual structure of the legal community prior to the monarchy and to a progressively reduced degree during the monarchy.

CHAPTER VI

THE PARTY SUBJECT TO DIVINE SANCTIONS ACCORDING TO THE COVENANTAL AND LEGAL TEXTS

The views of divine sanctions enunciated in covenantal traditions are of major importance for determining the model of covenant operative in them. It is our final 'crucial experiment.' It is closely related to our study of the addressee of law. According to the sovereign-subject model, divine sanctions would be imposed upon the violators of the legal order. The principle of accountability would be distributive, corresponding to the distributive principle of legal responsibility. According to the suzerain-vassal model, the divine sanctions would be imposed upon the people for collective or accumulative violation of the divine will.

Before we proceed to an examination of the texts, we need to review the design of our models in relationship to divine sanctions. The principle of distributive justice is plain enough. Sanctions are imposed upon violators of law. If Yahweh is a sovereign, we would expect him to support the legal sanctioning process and intervene to punish violators who for one reason or another evade legal sanctions. He would support and augment sanctions laid down in the law. If the officials of the communal institutions failed in their responsibility, he would intervene against them. From our study of covenant and legal texts, we would expect distributive divine sanctions in the classical covenant.

The principle of divine sanctions of treaties and contracts is also clear. Oaths with conditional sanctions were an archaic legal device for formalizing and giving effect to a man's word.[1] An oath gave a man's word an irrevocable character on which others could act in trust. When the deity witnessed to an agreement, neither party nor any legal instrument could alter it. A party who broke his word would be subject to divine punishment.[2]

If the covenant between Yahweh and Israel was conceived on analogy to a suzerain-vassal treaty, we would expect an oath and divine sanctions binding Israel to obey the provisions of the relationship. At least we would expect divine sanctions directed conditionally against the people. *These divine sanctions would sanction the provisions laid down in the covenant.* The provisions would necessarily be collectively addressed for the divine sanctions to be addressed to the people. From our study of covenant and legal texts, we would expect collective sanctions in the Deuteronomic covenant.

The Debate over Corporate Responsibility. It is held by many, perhaps most, scholars that the entire people of Israel was threatened with divine sanctions in all periods of covenantal history. To cite Freedman again,

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[1] Pound, *op. cit.* pp. 137ff.

[2] Note that Biblical law did not seal most contracts by oath: Tucker, *op. cit.*, pp. 176ff. They seem to have been used only when personal relationships or international agreements were formalized: Gen. 31:29f, 1 Sam. 20:42.

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> A conditional covenant depends for its continuing validity on the performance of a human party to it. So long as the community is obedient to its terms, the relationship will be maintained and the blessings associated with the covenant will be provided. . . When the community has violated the terms of the covenant, the bond is broken and the relationship between God and people is in danger of permanent dissolution.[1]

The term missing from this simple equation is how the law becomes something for which the community qua community is held responsible. Scholars have been aware that a middle term is required. Given the strong sense of community in the ancient world, it is usually proposed that, to cite Noth, "the whole society was thus responsible for a trespass originating with an individual, and had to bear its consequences."[2]

The question of corporate responsibility for acts of individuals needs to be re-opened. In actual fact, J. R. Porter has already seriously challenged the assumption that corporate responsibility was an operative principle of Israelite law.[3] In this chapter we shall ask whether this concept was an operative principle of the covenant relationship between Yahweh and Israel. That is, we shall investigate the covenant traditions to determine whether the people were collectively subject to divine sanctions or whether God sanctioned according to the principle of legal accountability.

The Forms of Divine Sanctions. Divine sanctions were enunciated in several ways. Blessings and curses were quasi-legal devices for sanctioning contracts and verbal agreements.[1] They were a necessary constituent of international treaties in the ancient Near East.[2] The swearing of an oath with blessings for compliance and curses for noncompliance put the treaty into effect. The oath, of which the blessings and cursing formulae were a part, was irrevocable and efficacious in form.[3]

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[1] Op. cit., p. 428.

[2] "Laws in the Pentateuch," Essays, p. 98.

[3] Op. cit.

Blessings and curses were formulated according to several syntactical patterns. One pattern makes a deity the subject of the blessing or cursing action.[4] Another simply describes the benefit or catastrophe which will come upon the party according to his action.[5] There are distinct sub-groups to these two types.[6] In Biblical texts we find another pattern which does not portray the blessing and cursing action, but designates where it takes effect or why.[7]

Most curses and blessings are formulated in a short, pithy, highly imagematic style. A table of them has a 'staccato' rhythm.[1] The images of the cursing or blessing action are primarily drawn from the spheres of agricultural productivity, human fecundity and military operations.

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[1] There are other uses of blessings and curses as well, but they are not relevant to our problem.

[2] McCarthy, op. cit., p. 95.

[3] On legal devices which are irrevocable and efficacious in form, see Daube, Studies, pp. 190ff, 305f, n. 6; and 158-60.

[4] D. R. Hillers, Treaty-Curses and the Old Testament Prophets ("Biblica et Orientalia", 16; Rome: Pontifical Biblical Institute, 1964), pp. 12ff, terms this style 'religious curses.'

[5] Ibid.

[6] Hillers, op. cit., p. 28, distinguishes a special group he calls "futility curses," which would be a sub-type of the "consequences."

[7] Where: Dt. 28:16ff; why: Dt. 27:15ff, also Gen. 49:7a.

Divine sanctions may be enunciated in other ways in other kinds of literature. We shall find descriptions of divine sanctions in psalmnic predications of God and motive clauses to law. Any statement, in fact, which describes or threatens an act of God to punish a human for his evil is a divine sanction. Any promise of divine favor, if it is a counterpart to threats of punishment or if it is conditional on obedience is also a divine sanction. We can apply the term 'sanction' to only those promises which encourage obedience to a command by offering something of a reward for compliance. Many promises do not suit the description because they are freely bestowed.[2]

Divine Sanctions in the Classical Covenant Traditions

By classical covenant traditions, we mean the three older strands of the Sinaitic covenant-making, the Yahwist, Elohist, and the Covenant Code with its framework. We shall include an independent text, Dt. 27:15ff, because it may be old enough to represent the classical covenant tradition. We shall begin with the Yahwist, because it contains a text which constitutes a key to understanding divine sanctions in the classical covenant traditions.

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[1] Hittite treaties tend to be less picturesque and briefer in blessing and cursing formulae.

[2] Noth, "Righteousness and the Law," Essays, p. 126, maintains that even conditional blessings are freely given promises rather than rewards.

The Yahwist. Ex. 34:6f contains a description of Yahweh which affords us insight into conceptual framework of divine sanctions in the classical covenant:

> Yahweh, Yahweh, a God of mercy and grace,
> slow to anger and abounding in fidelity and trustworthiness,
> who maintains fidelity to thousands,
> who bears with wrong and evil and sin,
> but who by no means acquits (the guilty)
> who visits the evil of the fathers
> on the sons and on the sons of the sons
> to the third and fourth (generations).

The participial style is characteristic of hymns of descriptive praise and the self-predications of theophanic and prophetic speech.[1] The description of Yahweh's grace had an independent life in the hymns of descriptive praise (Pss. 103:8ff, 112:4, 145:8) and as a part of confessions of trust in lament (Ps. 86:15, Jonah 4:2; cp. Ex. 22:26, Joel 2:12ff).[2] On the other hand, the conjunction of the praise of the gracious God with the description of his justice occurs only in covenantal contexts (Ex. 34:6f, 20:5f//Dt. 5:9f, Dt. 7:9f, cp. Josh. 24:19).[3] These texts also place the description in Yahweh's mouth or in the mouth of his spokesman.[4]

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[1] See Gunkel-Begrich, Einleitung in die Psalmen, Ch. 2: Die Hymnen. Cp. also Westermann, Basic Forms, pp. 125f.

[2] Joel 2:12ff is a prophecy of salvation which appeals to the description as a basis of hope.

[3] Josh. 24:19 is purely negative, the only one that is so. Cp. above, c. 3.

[4] In Dt. 7:9f and Josh. 24:19, the speaker is a surrogate for God. Ex. 34:6f is striking because it is third person Yahweh in Yahweh's mouth.

The fact that this description occurs only in covenant contexts and therefore in association with law indicates that it was intended as a formal statement of Yahweh's sanctioning practice within the covenant.[1] The term 'sanction' applies in the strict sense only to the threat of punishment for doing evil, for God's grace is bestowed without motivation. He enters and maintains community with men freely:

> I will be gracious to whom I will be gracious
> and I will show mercy to whom I will show mercy. (Ex. 33:19)

He will be loyal and constant to many and will tolerate human inconstancy.

The description of Yahweh's justice, somewhat in tension with the description of his grace, threatens sanctions against evildoers. The conceptual framework is that of a judge who does not *acquit* the guilty. He will execute punishment himself. K. Koch has shown that the word 'visit' (פקד) belongs to the conceptual world of the 'fate-creating deed.'[2] According to this set of ideas, a deed was believed to produce of itself its own good or evil result for the doer. An evil deed returns on the head of the perpetrator. The consequences of an act for the actor grow organically from the act itself, like fruit from a tree.[3] Yahweh simply makes certain that the evil deed initiates the chain of events which finally swallows up the perpetrator.[4]

Although the description does not explicitly mention legal violation, the covenant and legal context demand that the threat of sanctions refer to violation of the covenantal law. Moreover, the same language was used in other legal contexts. Injured persons would go to the sanctuary and pronounce adjurations against those who had aggressed against them,[1] and Solomon requests that when an injured party adjures his aggressor before the altar Yahweh

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[1] Cp. Beyerlin, *Sinaitic Traditions*, pp. 137f.

[2] K. Koch, "Gibt es ein Vergeltungsdogma im A.T.?" *ZThK* 52 (1955), pp. 1-42, esp. 25.

[3] *Ibid.*, pp. 3ff.

[4] *Ibid.*, pp. 10, 14f, and *passim*.

> will hear in heaven and execute judgment upon thy subjects, condemning the guilty by requiting his conduct upon his own head and vindicating the righteous by rewarding him according to his rectitude. (1 Kg. 8:32)

Although this passage is from the late temple prayer of Solomon, it represents both an ancient practice and conceptual world.[2]

The divine sanctions guard the legal order from violation and thus take effect distributively. Koch is incorrect in denying that Yahweh acts as a judge who metes out distributive justice according to an objective norm within the set of ideas which he has described,[3] for the term 'acquit' is a judge's act and Yahweh imposes sanctions on evildoers distributively. The party subject to sanctions is a *pater familias* who has done evil, and the consequences of his evil will extend over several generations of his family.

Neither the party threatened with punishment nor the party promised grace is portrayed as a people. Yahweh will show his חסד and אמת to 'thousands.' This plurality is probably not a collectivity.

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[1] On adjurations in Israel, see H. Brichto, *op. cit.*, pp. 40-55. He defines adjurations as follows: "Curses invoked not upon the person speaking but upon a party in second or third (grammatical) person" (pp. 40f).

[2] Cp. *Ibid.*, p. 52-55.

[3] *Op. cit.*, pp. 32, and *passim*.

The aim of the passage is to stress the multitude to whom grace is shown.[1]

To summarize, the description portrays Yahweh as having a relationship of sovereignty to this people. He shows fidelity and forbearance toward them in great numbers. On the other hand, he supports the legal order by assuring that violators reap what they sow.[2] Such a role belongs to the supreme administrator of justice in a legal community.[3]

The Elohist. Ex. 20:5f represent another version of the same description of Yahweh's grace and justice as Ex. 34:6f. It differs from the latter in the following respects: (1) It is appended to a law as paranesis, (2) it begins with a description of Yahweh's jealousy (cp. Ex. 34:14b), (3) the sections on grace and justice are in reverse order, and (4) the condition of obedience and love of God is attached to the grace clause, 'hate me' to the justice clause. Nevertheless, the divine justice continues to be administered distributively, i.e., according to culpability.

The Covenant Code. We have already underlined the fact that there are no blessings and curses associated with the Covenant Code. This fact is sufficient reason itself to refute the contention that this version of the covenant-making on Sinai was constructed on the plan of a suzerain-vassal treaty.[1]

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[1] Cp. Noth, *Exodus* (OTLib), p. 163: "in v. 6 the steadfast love of God is generally promised to thousands, i.e. an inconceivable number."

[2] Koch, *Op. cit.*, pp. 10, 14f, and *passim*.

[3] Cp. Pss. 72:1-4, 7, 12-14, 101:3-8, on the royal administration of justice.

The editor who appended Ex. 23:20-33 may have had the treaty in mind.[2] The passage itself, as we indicated in chapter two, is not a table of blessings and curses:

(1) Obedience to the 'angel of Yahweh' refers to his guidance at historical junctures enroute to Canaan, not to covenant demands. An angel is not needed to clarify the covenant demands.

(2) The blessing in v. 25 is linked to serving Yahweh by a simple copulative, indicating that it is not conditional.

(3) The survival of Canaanites is explained as a measure to avoid desolation of the land, not as a result of Israel's covenant failure.

(4) No curses are pronounced on Israel, even where Israel's possible 'sin' by friendly relations with the Canaanites or apostasy is treated (v. 33).[3]

On the other hand, the editor saw in the warning not to disobey the angel (v. 21) and the conditional promise of victory (v. 22) something which could fill the need which he felt for concluding divine sanctions. The threat of sanctions in v. 21 echoes the description of Yahweh's justice ('no pardon'). Inasmuch, however, as it uses a plural second person pronoun in a unit otherwise in the singular, it should probably be considered the editor's interpolation. Moreover, the two כי clauses are awkward.[1]

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[1] McCarthy, Treaty and Covenant, pp. 157ff.

[2] That Ex. 23:20-32 are editorial: Noth, Exodus (OTLib), in loc. Given the theme of an angel leading in the wilderness (vv. 20f), the unit is probably dependent on Ex. 33:1ff and inserted by the editor who inserted it.

[3] These points were drawn up by N. Gottwald, communicated privately.

Within the Covenant Code, we encounter three threats of divine sanctions (22:22f, 26, 23:7). Ex. 22:26 and 23:7 are textually secure. Each has a strong echo of the description of Yahweh's grace and justice.[2] Neither actually describes what God might do against a violator. Ex. 22:26 is a promise to hear a lament of the oppressed. The motive clause reads:

For I am gracious: כי חנון אני

This could be considered a citation from Ex. 34:6:

A merciful and gracious God: אל רחום וחנון

God will punish the oppressor out of his grace toward the poor.[3] Ex. 23:7 warns the judges of the court to keep away from false charges and not to slay the innocent or righteous,

For I will not declare the wicked righteous: כי לא אצדיק רשע

This sanction echoes the description of Yahweh's justice in Ex. 34:7:

He will by no means acquit: ונקה לא ינקה

While the verb differs in the two cases, both are judicial terms for a favorable legal decision.[4] Yahweh administers justice distributively within the community as a 'supreme judge.'

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[1] Thus, the original ran: "Do not rebel against him, for my name is in him."

[2] Cp. Beyerlin, "Die Paranëse im Bundesbuch," op. cit., pp. 23ff.

[3] Same type of thought as 1 Kg. 8:32.

[4] Negated, of course here. On צדק, see Boecker, op. cit., pp. 122ff.

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Ex. 22:22f are textually and conceptually more problematic than 22:26 and 23:7. The first of these verses is in singular address. It corresponds in type to 22:26: God will 'hear the cry' of the oppressed. This means that he will punish the oppressor as grace to the oppressed. Ex. 22:23, which is formulated in plural address, as is the commandment itself (v. 21), describes the form of punishment, a poetic reversal. This is the only actual description of punishment among our examples. Because of the plural address, it could be taken collectively as well as distributively. Whether the singular or plural is original to the passage is difficult to say. It is possible that the ambiguity of the relation governed, viz., between classes of people, produced an ambiguity in the party subject to divine sanctions.[1]

To conclude, the divine sanctions to be found in the Covenant Code and its narrative framework are limited to motive clauses attached to specific laws. With one possible exception (Ex. 22:23), the sanction is formulated in the language and conceptual framework of the description of Yahweh's grace and justice. The party subject to sanctions is an individual, a violator of the law. Yahweh acts as the protector of the weak and defender of the innocent, duties of a sovereign in relationship to his subjects.[2]

Deuteronomy 27:15-26. It is generally agreed among scholars that most of Dt. 27 does not belong to the basic stock of the book.[1] These materials were probably inserted into their present position by the Deuteronomistic historian.[2] The curses in Dt. 27:15-26 are of importance to us because they form one of only three tables of curses in the covenant tradition (Dt. 27:15ff, Dt. 28, Lev. 26). Moreover, the table could be ancient, although its time of origin is disputed.[3]

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[1] Cp. chapter four, where we discussed the collective dimension of the laws governing relations between majority and minority groups.

[2] See p. 300, n.3.

The style of these curses is a regular Israelite curse formula: the passive participle of ארר followed by a description of the person to whom it applies. The description takes the form of a participial clause.[4] It functions not only as a description but as the reason for the curse as well.[5]

Each of the curses falls upon an individual who perpetrates a serious offense. Persons are put under curse according to the category of offense. As A. Alt has shown, the categories parallel those covered by מות יומת and apodictic law.[6] From this we can conclude that the table was intended to sanction serious offenders.[7] Vv. 15, 24 qualify the offenses by 'in secret,' suggesting that the table was intended primarily as a supplement of the legal system. That is, God is to punish those who for reason of secrecy or weakness in the legal system would go unpunished.[1]

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[1] Eissfeldt, *Introduction*, p. 231.

[2] See chapter two on our source analysis of Deuteronomy.

[3] A. Alt, *op. cit.*, pp. 114ff, dates this series quite early, at least prior to the monarchy. But many scholars consider it a late imitation of apodictic series: recently, Gerstenberger, "*Apodiktischen Rechts*," p. 104.

[4] On the style, see Alt, *ibid.*, p. 114f.

[5] Westermann, *Basic Forms*, pp. 197f; also pp. 190-194.

[6] Alt, *op. cit.*, p. 121; Rabast *op. cit.*, pp. 21f.

[7] Some of these appear to have been less serious than others, *viz.*, vv. 17, 18.

No specific punishment seems to be implied by the word ארר. Brichto argues that we should translate ארור 'banned from blessings and community.'[2] If this translation is correct, it would parallel the Priestly 'excommunication' formula,

> He shall be cut off from the people.[3]

But this translation is uncertain. It may be too specific to satisfy many contexts. We believe that the word here affirms only that some form of punishment will occur. That is, it seems to parallel the 'visit iniquity' formula in which the fact of punishment, not its content, is asserted. Dt. 27:15-26 are nearly identical in form and conception to the prophetic woes which likewise simply call down sanctions upon the party designated.[4]

The ארור curses do not connect the sanction directly to Yahweh. One might argue that the power made effective in cursing was independent of God.[5] However, Biblical literature generally subordinates the power of the curse to God.[1] These particular curses have subordinated the power of the curse to the divine law, i.e., they curse violators of the provisions of the law. Gen. 49:7 and many of the prophetic woes are expanded by sentences with divine interventions, an indication that God is the immediate power behind this type of curse.

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[1] Alt, op. cit., p. 115. Secrecy: vv. 15, 17, 18, 20, 21, 22, 23,24. Weakness of legal system: vv. 18?, 19, 25. V. 16 may also be an act in secret, but it is hard to envisage. V. 26 covers the entire law: sounds like it has a paranetic origin and is late.

[2] Op. cit., pp. 75-96, 114f.

[3] We discussed this phrase some under paranesis to the law.

[4] Westermann, Basic Forms, pp. 197f. [5] Cp. ibid., pp. 194ff.

The people respond to the proclamation of each curse with 'Amen.' On the analogy of Num. 5:19-27, we can interpret the response as having the effect of self-cursing. Since, however, no charge has been made against those who repeat the 'Amen' here, we may also see an act of consent to the cursing by the entire people. That is, we probably have in this ceremony something parallel to the formal acceptance of the law by the people reported in Ex. 24:3ff.[2]

To summarize, the table of curses in Dt. 27:15-26 announce divine sanctions for violators of the provisions of the law. Like מות יומת law, which they resemble syntactically, the curses are distributive. They cover offenses which were in danger of escaping judicial sanctions. As sanctioner, God protects the legal order by meting out justice to legal offenders. He supplements and also reinforces the judicial process. This situation corresponds to the sovereign-subject model of the covenant.

Summary and Conclusions. We found no blessing and cursing formulae in J, E and the Covenant Code. The absence of this element of

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[1] Brichto, op. cit., pp. 205ff and passim.

[2] See chapter three on Ex. 24:3-8.

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the treaty form was a prime factor in McCarthy's negative conclusions regarding the suzerain-vassal treaty as the model of the covenant.[1]

Our examination has uncovered passages which do portray the sanctioning action of God, not according to a suzerain-vassal but a sovereign-subject model. These texts from the Yahwist, Elohist, and Covenant Code were formulated according to the principle of distributive justice. Yahweh shows grace toward a great multitude, and specifically to the poor, weak, innocent and outcast, and visits wrong on the head of the perpetrator and his family.[2] The table of legal curses in Dt. 27:15-26 was also formulated according to the principle of distributive justice. Violators of fundamental law were placed under curse. Whenever Yahweh imposes sanctions on the violators of the law distributively, we are in the sphere of the sovereign-subject model of the covenant.

EXCURSUS: GENERAL LEGAL ADMONITION

Alongside of the specific motivational clauses which we have treated as a part of the law, legal texts contain general admonitions. N. Lohfink has collected the Hexateuchal evidence under the name 'paranetic schema.'[3] Our analysis of the party subject to divine sanctions, or recipient of divine blessings for obedience, can be presented as a discussion with Lohfink.

According to Lohfink, the 'paranetic schema' has two parts:
(1) An exhortation to obey the law, and
(2) A 'final' clause assuring blessings.

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[1] McCarthy, *op.cit.*, pp. 157ff.

[2] We do not exclude a collective application of these passages, but we do insist that the conceptual framework according to which they were formulated was not collective, but legal.

[3] *Hauptgebot*, pp. 90-97.

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The exhortation to obey the law is the essential element and the assurance is optional. Other elements, such as a promulgation clause and an admonition addressed to the future generations, can be attached. The basic thought embodied in the form is: Fulfill the law so that it will go well with you.[1] The language is so general that no difference between distributive and collective addressee of the admonition and divine sanctions is possible.

There is one example of general admonition in the Covenant Code:

> To all that I have said to you give heed! (23:13a)

The style of this admonition is distinctive. It recalls the pledges to obey Yahweh in the framework units (Ex. 19:8, 24:3, 7).[2] The word common to the admonitions, שמר, is used in the Nifal stem, uniquely among the admonitions. Attached to it is the quasi-apodictic injunction:

> And do not mention the name of another god,
> let none be heard upon your mouth. (23:13b)

The admonition forms a unit with the injunction. We believe that not only is the assurance of blessing lacking, but that the admonition was not understood in that light. The law-giver associated the admonition in his mind with compliance with specific injunctions, not general obedience. The addressee should make a concerted effort to follow the legal provisions. The one blessing in the Covenant Code (20:24b) is not attached to a provision as a 'final clause,' but is free standing.

This poses the question of whether Lohfink is correct in maintaining that the admonition without the assurance of blessing still assumes it. The admonitions in the older legal traditions likewise refer to specific provisions without assurance of blessing: Ex. 12:17, 24, 25, 13:10. The admonition with an assurance of blessing tends to be very general, for the blessing would depend upon compliance with the *whole* law.[3] There is one admonition of general scope in the older material, Ex. 34:11, the beginning of J's law. This functions as a superscription, a formal introduction to a collection of laws. In such a formal position it would not naturally be rhetorically expanded by an assurance of blessing.

It is our conclusion that the classical legal tradition did not possess the 'paranetic schema.' The one counter-example, an example critical for Lohfink's case, occurs in Gen. 18:19.[4] We agree with von Rad that v. 19 "is filled with theological formulations which are quite foreign to the older narratives ("keep Yahweh's way" "doing righteousness and justice," "choose" instead of "know" for yd^c)."[1] Moreover, v. 19 assumes that the "judgment of Sodom is already fixed."[2] The actual conversation between Yahweh and Abraham (vv. 23ff) does teach a lesson, but not one entirely congruent with legal admonition.[3]

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[1] *Ibid*., p. 90.

[2] The plural is noteworthy too, for the framework of the Covenant Code is plural address (Ex. 19:3-6, 20:22f). Most likely 23:13 as a whole belongs to the author of the framework.

[3] Cp. Lohfink's examples (*op. cit*., pp. 92f): Gen. 18:19, cp. 26:4f; Lev. 18:5, 20:22, 25:18f; Dt. 5:29, 32f, 6:2, 3, 17ff, 24, 7:11, 8:1, 10:13, 11:8f, 18-21, 12:28, 13:19, 16:20, 17:19f, 19:8f; cp. also Ex. 16:28, Dt. 15:4f.

[4] *Ibid*., p. 93.

To summarize, the admonition to obey the provisions of the law was an ancient speech form, but the attachment of assurances of blessings was a secondary development which first appears in Deuteronomic law and paranesis.[4] It was correlative to the collectivizing of the law and divine sanctions.[5]

Deuteronomy Twenty-Eight

We have already determined in chapter three that the Deuteronomic interpretation of the covenant promised the entire people blessings for obedience and threatened curses for disobedience. Our task in this chapter is to examine the blessings and curses in somewhat greater detail in order to demonstrate that the author of Deuteronomy consciously modified the language of divine sanctions to impose them on the entire people. The Deuteronomic view of covenant, we have maintained, was an innovation and the collectivization of the party subject to divine sanctions was one of its chief features. In order to show this, we shall need to show that all collective materials in Dt. 28 can be traced to the author of Deuteronomy.

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[1] Genesis, p. 204. [2] Ibid., p. 205.

[3] One would expect: see what happens to sinners, but instead we encounter a discussion of God's concern for the righteous.

[4] Actually, the use of 'final clauses' may derive from wisdom: cp. Lohfink, op. cit., pp. 81ff, on the verbs for blessing.

[5] See above. The singular nouns for law, employed in a collective sense, represent a further development of the same tendency. It is our opinion that these are post-Deuteronomic.

The Table as a Whole. Dt. 28 contains a table of blessings and curses as we defined it at the beginning of this chapter. Each curse and blessing is formulated in a short, pithy, imagematic style, usually complete in one sentence. The table has a 'staccato' rhythm characteristic of the ancient Near Eastern texts of the same genre. The superscriptions (vv. 1f, 15) and subscriptions (vv. 13b-14, 45f, 58-61) are formulated in conditional style. The superscriptions could, according to McCarthy, occur *verbatim* in a suzerain-vassal treaty.[1] In fact, the presence of blessings and curses to sanction the legal provisions of the covenant parallels the suzerain-vassal treaty precisely, whereas there are no real analogies among ancient Near Eastern legal codes.[2] Thus, it is a decisive confirmation of the contention that the Deuteronomic covenant was modeled upon a suzerain-vassal treaty. The blessings and curses sanction the collective vassalhood duties to maintain and enforce the covenantal order among the people of Israel.

The Initial Series: *28:3-6*, *16-19*. The table of blessings commences with a series in which each member begins with the catchword ברך in the Qal passive participle. The curses begin with a similar series with the catchword ארר in the passive participle of the Qal. In each series the subject is אתה, 'thou', or something belonging

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[1] *Op*. *cit*., pp. 121f.

[2] CH does end with a table of blessings and curses protecting the stele and enactments from the acts of subsequent kings.

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to this party, and the indirect object designates when and where the blessing or curse will take place. The action of the blessing or curse is not depicted. The parallelism between the two series, along with their poetic style and distinctive character, has led many scholars to the conclusion that these two series were the older covenantal tradition.[1]

The 'thou' in the series is an _individual_ who lives in a town, works in a field, eats from a basket and kneading-trough, and reproduces and produces. It was Martin Noth who called our attention to this fact:

> After an introductory phrase setting out the circumstances (vv. 1a = 15a) and a general announcement of blessings or curses (vv. 2a = 15b) there follows the formula of blessing or cursing which was probably not composed _ad hoc_, but had come down to the editor in this solemn fixed form, and _had originally served as the formula for pronouncing a blessing or a curse on an individual, and not on the whole nation_.[2]

Unfortunately, he does not pursue the question further or draw any conclusions from his observation.

The logical conclusion to draw from it is that the table imposes divine sanctions on the community distributively in correspondence with the classical covenantal law. The law, it will be remembered, was imposed upon the community distributively and legal sanctions were imposed on violators. In this dual series, if they were a part of the earlier covenant tradition, God promises to guard and support the legal order. He would be doing so in the capacity of sovereign-judge.

Of course, within the Deuteronomic setting the addressee becomes

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[1] E.g., G. E. Wright, _The Book of Deuteronomy_ ("The Interpreters Bible", G. A. Buttrick, ed, II; New York: Abingdon-Cokesbury Press, 1953), _in loc_.

[2] "Righteousness and the Law, _Essays_, pp. 120f. Italics added.

every Israelite as a member of a blessed or cursed people.

Deuteronomy 28:20-29, 35. Following the series of curses depicting where and when curses will overtake the addressee, we have a section in which most members have Yahweh as subject of a sentence with an imperfect verb and an indirect object depicting his cursing action. Noth would interpret the imperfect verb jussively.[1] Vv. 22, 27, 28, and 35 have the same verb יככה, 'strike,' and disease as indirect object.[2] The direct object, presumably 'you,' is lacking. V. 21 has Yahweh as subject and a disease as a cursing action, but employs a different verb and has a personal pronoun. V. 20 is quite general and probably represents something of a superscription to the section. Vv. 24 and 25 make Yahweh the subject of יתן. V. 24, along with v. 23, calls forth drought. The cursing action in v. 25, and its consequences in v. 26, is military defeat. Finally, v. 29 follows the curse of 'madness and blindness' with the consequences of groping and failure.

Some of these verses depict the one who suffers the curse as an individual. Vv. 27 and 35, which appear to be two versions of the same curse of שחין, 'boils,' depicts an individual sufferer. This is especially true of v. 35, which is nearly identical with Job. 2:7. Vv. 28-29a condemn the addressee to madness and lostness. Parallels in the book of Job confirm our supposition that this cursing action takes place in an individual. In his depiction of the fate of a wicked man, Eliphaz describes him as

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[1] *Ibid*., p. 130, n. 42.

[2] Perhaps once formed as series: *ibid*., p. 122.

> meeting with darkness in the day time
> and groping at noonday as in the night. (Job 5:14)[1]

This is nearly word for word the same as Dt. 28:29a. V. 29b calls forth failure, specifically in court. This too has parallels in Job (5:4f).

Some of the afflictions mentioned in vv. 21-26 could belong to individuals. Even such communal disasters as famine and war could be viewed from an individual's standpoint. For example, in his description of the fate of a righteous man, Eliphaz says:

> In famine he will redeem you from death and in war from the power of the sword. (Job 5:20, also vv. 21b, 22a)

However, vv. 21-26 suit, on the whole, a community better than an individual. The diseases of vv. 21f are never mentioned in connection with individuals in the Old Testament.[2] V. 22 is striking too in that it lists a whole series of diseases, some against humans, some against crops. This would apply to a community much better than it would to an individual. The threat of military defeat (vv. 25f) can only belong to a nation or a king.

Vv. 20, 21, 22, 24, 25 have clauses which describe the final result of the operation of the sanction in communal terms:

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[1] Cp. Job 12:25 of leaders of peoples. Neither Eliphaz nor his colleagues specifically mention the attack of physical diseases (but cp. 18:13) and Job himself speaks only in general terms (e.g., 30:28, 30).

[2] See terms in B.D.B. On the Israelite silence regarding symptoms, cp. Westermann, "Struktur und Geschichte der Klage," Forchung, p. 284. We take this fact to indicate that vv. 21f are foreign in origin. - Jeremiah has numerous threats of death by pestilence: 21:6, 7, 9, 24:10, 27:8, 29:17, 18, 32:36, 34:17, 38:2, 42:17, 22, 44:13.

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> ...in all that you undertake until you are destroyed and perish quickly, on account of the evil of your actions, because you have forsaken me. (v. 20)
>
> ...until he has consumed you off the land which you are entering to take possession of. (v. 21)
>
> ...They shall pursue until you perish. (v. 22)
>
> ...until you are destroyed. (v. 24)
>
> ...and you shall be a horror to all the kingdoms of the earth. (v. 25)

cp....and there will be no one to frighten them away. (v. 26)

The repetition of these similar phrases was probably intended to tie the section together and to emphasize the completeness of the cursing action against the people. All of the phrases are characteristic of the Deuteronomic school. G. Minette de Tillesse notes that שמד (vv. 20, 24) is typical of both D and Dtr., while אבד(vv. 20, 22) is strictly Dtr.[1] V. 20b is composed of elements of vv. 15 and 45. V. 21b contains the tell-tale D-Dtr. phrase "the land which you are entering to take possession of."[2] The concluding phrase of v. 25, "you shall be a horror to all the kingdoms of the earth," (cp. v. 37) comes into use only after the promulgation of Deuteronomy. The book of Jeremiah has no less than seventeen examples of it.[3]

To summarize, most of vv. 20-29 are formulated with a community in mind. Vv. 27-29, 35 do curse an individual, but the remainder do not.

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[1] _Op. cit._, p. 55. Thus Dtr. has at least interpolated into the text.

[2] Driver, _LOT_, p. 99.

[3] Jer. 15:4, 18:16, 19:8, 24:9, 25:9, 29:18, 34:17, 42:18, 44:8, 12, 49:13, 17, 50:13, 23, 51:37, 41, 43. Verse 26 has parallels in Jer. 16:4 19:7; 7:33, 34:20.

The phrases attached to the curses formulated for the community are indicative of the author of Deuteronomy and his school. This suggests that he had a hand in composing the curses as well.

Some Assyrian Parallels. M. Weinfeld has recently suggested that large portions of vv. 20-35 are a literary borrowing from Assyrian suzerain-vassal treaties.[1] His evidence and argument deserve serious consideration. Let us consider his parallels first:[2]

Dt. 28:23f	VTE 528-31: May they (the gods) make your ground like iron so that no one can plough it; just as rain does not fall from a brazen heaven, so may rain and dew not come down on your fields and your pastures.
Dt. 28:25f	VTE 425-27: May Ninurta, the first among the gods, fell you with his swift arrow; may he fill the desert with your corpses; may he feed your flesh to the eagle and the jackel.
Dt. 28:27 (35)	VTE 419-20: May Sin, the lantern of heaven and earth clothe you with leprosy.
Dt. 28:28-29	VTE 422-24: May Shamesh, the light of heaven and earth, not give you a reliable decision; may he deprive you of the sight of your eyes (so that) they will wander about in darkness.
Dt. 28:30a	VTE 428-29: May Venus, brightest of the stars, make your wives lie in your enemy's lap while your eyes look (at them).
Dt. 28:30b (32)	VTE 429-30a: May your sons not be masters of your house.
Dt. 28:33 (31f)	VTE 430b: May a foreign enemy divide all your goods.

The actual formulation of many of the Assyrian curses is so close to

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[1] M. Weinfeld, "Assyrian Treaty Formulae in Deuteronomy," *Biblica* 46 (1965), pp. 417ff.

[2] *Ibid*., pp. 417-419.

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Deuteronomy's that some literary relationship must be posited. But the most striking feature, observes Weinfeld, is the parallel order of vv. 25-33. If vv. 25f were inserted between vv. 29 and 30, the sequence of vv. 25-33 would be the same, with some slight differences, with VTE 419-30.[1]

Weinfeld argues that the similarity in wording and sequence demonstrates literary dependence. There is no apparent logic to the Biblical sequence, but the Assyrian order corresponds to the hierarchy of the pantheon. The god associated with the curse established the order of the curses.[2] The author of Deuteronomy borrowed at least vv. 25-35 from an Assyrian treaty.[3]

This hypothesis is quite intriguing, but it does leave some perplexities. It does not account for vv. 21f, though it is likely that v. 22, and probably v. 21, should be related to vv. 27, 28, 35 on stylistic grounds.[4] At the other end, it overlaps into vv. 30-32, a distinct stylistic unit associated with vv. 38-42. Thus, the hypothesis of direct borrowing of vv. 21-35 may oversimplify the process of formation. Nevertheless, it is basically well-grounded and provides us with an account of the origin of this section.

The Assyrian vassal treaty origin would account for the communal subject of many of the cursing actions of this section and the individual subject of others. Curses against a head of state could fall upon his kingdom and army, according to the principle of 'ruler punishment,' or against his person and family.[1]

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[1] Ibid., pp. 419f. [2] Ibid., pp. 420f. [3] Ibid., pp. 423, 427.

[4] See above, In the following, we shall treat vv. 21-24 as a part of the borrowed unit.

Deuteronomy 28:30-44. Within this section we have three distinct series: vv. 30-32, 38-42, 43f. The first of these series, which we have already had occasion to discuss is formulated according to a style which Hillers terms 'futility curse.'[2] Each curse describes an action and the frustration of its intended result.[3] Vv. 38-42 describe an action and its frustration and add the agent.[4] Vv. 43f is a 'comparative curse,' i.e., it compares the fortune of an Israelite to that of an alien.[5] All three series can be poetically scanned.[6]

The kinds of frustration suffered in the futility curses by the personally addressed 'thou' belong naturally to a male individual who practices the occupation of farming: betrothing a woman, building a house, planting a vineyard, grain field or orchard, raising livestock and begetting children. It is not surprising, then, to find close parallels to Job's self-curses (Job 31).[1] The comparative curses (vv. 43f) presuppose the addressee to be an individual within a settled community.[2] The 'alien' was chosen, according to our interpretation, because he belonged to the class of the disinherited, and the comparison emphasizes the depths of one's fortunes.[3]

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[1] The court example is an instance of the reverse of 'democratization': It has been drawn from civilian life and applied to a king. Kings were not subject to court censure. Gerstenberger, "Apodiktischen Rechts", p. 102, gives an example of the popular origin of treaty provisions.

[2] Op. cit., pp. 28f, 35-37.

[3] Actually only v. 30 has exactly that style; vv. 31f describe a loss and then one's helplessness to do anything to stop it.

[4] Weinfeld, op. cit., p. 424, finds parallels in a Sefire treaty to the 'agent' clauses. He considers these to be 'West Semitic.' - V. 42 is a summary of 38-40.

[5] Hillers, op. cit., p. 39, demonstrates the poetic form of v. 44.

[6] Ibid., pp. 35-37, 39.

While vv. 32 and 41 look upon the loss of children from the viewpoint of a parent, and might take place within a stable, non-military situation,[4] vv. 33f, 36f announce invasion and exile for the entire people. Several phrases in these verses tip us off to their Deuteronomic or even Deuteronomistic origin:

vv. 33f:	...which you have not known...(Dt. 8:3, 16, 11:28, 13:3, 7, 14, etc.)
	...the sight which your eyes see. (cp. Dt. 11:7)
vv. 36f	You and the king that you set over you...(Dt. 17:14ff)
	...neither you nor your fathers have known...(see v. 33)
	There you shall serve other gods of wood and stone (Dt. 4:28, 28:64, 29:16, 2 Kg. 19:18)
	And you shall become a horror, a proverb, and a byword.. (see v. 25)

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[1] Cp. Dt. 28:30a to Job 31:10, Dt. 28:30c to Job 31:8, Dt. 28:38-40 to Job 31:40.

[2] That is, it deals with the relative status of persons within a community. A possible alternative interpretation would be that Israelites as a class will lose status over against the aliens in their own land.

[3] Job 30:1-10 has a similar comparison of Job's fate to that of an animal-like race of men: cp. Westermann, Der Aufbau des Buches Hiob, pp. 35f, n. 3.

[4] Cp. Amos 1:6 (9), where 'carry into exile' seems to denote slave traffic.

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These verses, especially v. 36, actually sound like *vaticinium ex eventu*. Aside from these verses, we encounter only two communalizing phrases from the hand of the author of Deuteronomy in this section:

in all your territory (v. 40: cp. Dt. 16:4, 19:3, 8)
who is among you (v. 43: cp. Dt. 18:2, and often).[1]

We have no knowledge of the origin of the futility and comparative curses. Their poetic style and lack of Deuteronomic language argue that they are older than the composition of the book. They are formulated to curse individuals. If they were a part of the pre-Deuteronomic covenant tradition, they were imposed distributively upon the community, corresponding to the legal accountability of the classical covenant. Yahweh, as law-giver and supreme judge, would be protecting his community against violators of the law.[2]

Deuteronomy has absorbed these distributive curses into his collective sanctions simply by including them in the table and also by interspersing the threats of invasion (vv. 33f) and exile (vv. 36f) and appending a few communalizing phrases (in vv. 40, 43).

Deuteronomy 28:47-68. The author of Deuteronomy concluded the table of curses with 28:45f.[3] Probably this conclusion was once the end of the book. The following section (vv. 47-68) is rather awkwardly

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[1] Driver, *LOT*, p. 101.

[2] The argument of these subsections has been severely criticized by several readers. We have attempted to take these criticisms into account. However, we remain convinced of our form-critical methodology and findings.

[3] Cp. von Rad, *Deuteronomy* (OTLib), *in loc*. V. 47 begins awkwardly with ... תחת אשר.

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attached to the table and must be judged to be an appendix by a later author.

This section itself divides into three parts: vv. 47-57, 58-61, and 62-68.[1] Vv. 47-57 dramatize an invasion of Israel by a distant enemy and seige warfare during the invasion. Vv. 58-61 are a subscription which refers back to a completed table of curses along with a completed collection of law. Finally, vv. 62-68, which may not be a unity themselves,[2] depict exile and concommitant troubles. Vv. 47-57 and 62-68 have the character of a quasi-narrative description of a coming event rather than the staccato character of a table of curses. Moreover, the event is presented as inevitable, whereas the curses are possibilities in case of disobedience.[3] Many scholars believe that in 28:47ff we have _vaticinium ex eventu_ from the Judean exile.[4]

Here and there images appear to be old and the lines to have once had poetic meter.[5] This is especially true of vv. 49-57. But an origin of this section in a table of curses is implausible. It is a description of the progress of the invasion of an enemy. C. Westermann has identified a type of speech in classical prophecy which expanded the sentence of the prophecy of judgment of the people into a broad dramatization of the approach and attack of an enemy.[1] These occur in Is. 5:26-30 and 10:28-32 and in the 'foe from the north' prophecies of Jer. 4-6. It cannot be accidental that Dt. 28:49-57 are closely parallel to these passages and otherwise have most of their O.T. parallels in prophecies against foreign nations.[2] Westermann traces the description of the approach and attack of an enemy to the prophecy of judgment against foreign nations.[3] This means that the classical prophets (in Is. 5:26ff, 10:28ff, Jer. 4ff) have inverted prophecy against the enemies, which meant salvation to Israel, into prophecy of judgment against Israel. We suggest that the author or rather editor of Deuteronomy has done essentially the same thing in Dt. 28:49-57.[4]

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[1] Carl Steuernagel, _Deuteronomium und Josua_ ("Handkommentar zum Alten Testament;" Göttingen: Vandenhoeck und Ruprecht, 1900) _in loc_.

[2] _Ibid_. [3] Cp. McCarthy, _Treaty and Covenant_, p. 124.

[4] E.g., Noth, "Righteousness and the Law", _Essays_, p. 120: vv. 47-68 "have been added later in order to explain the historical events of the fall of the Judean kingdom at the beginning of the sixth century as the express working of the curse attendant on the failure to fulfill the laws."

[5] Hillers, _op. cit_., p. 39. Cp. the parallels listed by Weinfeld, "Assyrian Treaty Formulae in Deuteronomy", _op. cit_., pp. 425f.

Deuteronomy 28:7-13a. Following the series of blessings depicting where and when the blessings will descend upon the addressee, we have a section in which most members have Yahweh as subject of a sentence with an imperfect verb and an indirect object sketching his blessing action. Each verb is different. Most have the pronominal suffix, 'you', as the direct object. As to subject-matter, the blessings summarize the topics of the curses:

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[1] Basic Forms, p. 186.

[2] The closest parallel is Jer. 5:15-17, but also cp. Dt. 28:49 ('from afar...') to Is. 5:26, 'vulture' to Hab. 1:8, Jer. 48:40, 49:22; 'foreign tongue' to Jer. 5:15, Is. 28:11, 33:19; v. 50 ('no regard for the old...') to Is. 13:18, 47:6, (Lam. 4:16, 5:12); v. 51 ('he shall eat...') to Jer. 5:17a; v. 52 ('trust') to Jer. 5:17b; vv. 53ff (eat children) to Jer. 19:9, Ezek. 5:10.

[3] Basic Forms, p. 186, n. 10a.

[4] So far as we can see, vv. 62-68 does not have a background in prophecy vs. the enemies or in curses.

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Blessing	Curse	Topic
7	25 (26, 36f)	Military victory
8	30b-31, 38-40/29b	Agricultural production
9-10	------------------	Election and Protection
11	30b-31, 38-42	Fecundity and Production
12a	23f	Rain
12b-13a	cp. 43f	Wealth and Power

The blessings have all been formulated to apply to the entire nation. Where the parallel curses are specific and distributive, the blessings are general. They are saturated with Deuteronomic paranetic phrases which apply to the whole nation (cp. vv. 8, 11: '...in the land which Y...gives you/swore to give to your fathers;' vv. 8, 12: 'all that you undertake/the work of your hands'). Military victory (v. 7) and wealth and power among the nations (vv. 12b-13a) are clearly national blessings. And, of course, in the very center of the table there is the election declaration formulated as a conditional blessings (vv. 9f).

The table of blessings is actually a composition, modeled upon blessing formulae, enunciating the fundamental theological ideas of the author of Deuteronomy from another vantage point.[1] The heart of Yahweh's blessing of Israel is his election of it to be his holy nation. While this is a gift of Yahweh, essentially rooted in his past saving actions,[2] it remains conditional upon Israel's obedience.

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[1] Noth, op. cit., pp. 121ff, puzzles over whether anything can be traced behind Dt. in this section. He does not come to a decisive conclusion, but does admit the possibility of vv. 7a, 8a, 11a, 12a. We seriously doubt that any are pre-Deuteronomic.

[2] See chapter three.

Israel's association with Yahweh will be its inner source of strength (v. 10). Because Israel is his elect, he will defeat its enemies (v. 7), for election itself involves divine protection (v. 10b). Yahweh will elevate Israel above all other nations in wealth and power (v. 13a, also vv. 1b, 12b). As a part of Yahweh's election, he promised (v. 11b) and will give (v. 8b) the people their land, and he will bestow upon them nature's bounty and success in all their enterprises (vv. 8a, 11a). All the 'blessings' in the strict sense are actualizations, according to Deuteronomic theology, of the *summum bonum*, Yahweh's 'establishment' of Israel as his holy people.[1]

Summary and Conclusions. The Deuteronomic Code concludes with a table of blessings and curses sanctioning the collective duties enunciated in its law. This element of the covenant document was intended, in all probability, to resemble the conclusion of a suzerain-vassal treaty.

Our analysis of the chapter has concentrated on the question of how much of it can be attributed to the author of Deuteronomy and how much should be traced to earlier, perhaps covenantal, traditions. We found that the blessings and curses in the chapter which apply to the people as a whole show linguistic evidence of Deuteronomic origin, whereas those which envisage the cursing action as taking effect in an individual exhibit signs of a pre-Deuteronomic origin.

One group of curses (28:20-29, 35) had Deuteronomic-Deuteronomistic clauses stressing the national scope and total devastation of the cursing action, but the curses themselves appear to have been literally copied from Assyrian treaties, Both specific formulations and sequence point in this direction. Another section (28:47-57) seems to have been borrowed from prophecy against the enemy and re-applied to Israel itself by an editor.

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[1] Cp. G. von Rad, *Gottesvolk*, pp. 23-28.

Thus, both of our theses have been confirmed by our investigation of Dt. 28. On the one hand, we have confirmed our thesis that the classical covenant envisaged distributive divine sanctions, sanctions against violators of the law. This thesis is confirmed if, as is plausible but not certain, 28:3-6, 16-19, 30-32, 38-42, 43f were taken from covenant tradition. On the other hand, we have clear evidence that the author of Deuteronomy was consciously revising divine sanctions to impose them on the entire nation. D has consciously modeled the covenant on the international suzerain-vassal treaty of its time and actually borrowed some of its material from the latter.

The Holiness Code

In spite of our affirmative results over the large number of texts examined thus far in this chapter, it might seem that the Holiness Code is a decisive refutation of our thesis that the classical covenant understood divine sanctions as operating on the principle of legal accountability and that Deuteronomy was the originator of collective sanctions in covenant tradition. Not that the Holiness Code is ancient, or even as old as Deuteronomy, for in the estimation of the majority of scholars it is neither.[1] At a literary-critical level, then, it does not put obstacles in the way of our thesis.

At a form-critical level, on the other hand, it appears to confirm the existence of the Deuteronomic-like speech forms and conceptions in the covenant traditions apart from Deuteronomy. That is, it is argued that the paranesis on law and the concluding blessings and curses, which we took to be in part peculiar to Deuteronomy and embodiments of its revised modelling of the covenant, actually had a long history in covenantal tradition, for two independent streams of this tradition possess them. If the two streams of tradition were indeed independent and did not influence each other, we would have to surmize that the paranetic and sanctioning language goes back to the time before they diverged, or something of this sort.

It is our task in this section to examine the texts of the Holiness Code to determine whether they do indeed contain collective divine sanctions and, if they do, to account for their origin. Our thesis might be said to be on trial. The examination will be divided into two parts, the paranesis within the law chapters (cc. 17-25) and the concluding blessings and curses (c. 26).

Paranesis. Our study of law in the Holiness Code turned up only the most marginal collectivization of the law. Aside from the festival commandments, which were universally collective, two laws against sodomy address the people/court as executors of sanctions (Lev. 20:15f).[2]

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[1] See above, chapter two.

[2] See above, chapter four and five.

Likewise, collective motive clauses were quite infrequent (20:14). On this basis, according to the logic of our argument, we would not expect collective accountability and divine sanctions. There simply has been no consistent effort to interpret the law as collective duty.

However, we do encounter a few general admonitions and warnings in the Holiness Code which are thought to call for collective obedience and mention collective sanctions. On the one hand, there are examples of the 'paranetic schema' (Lohfink) or general admonition:[1]

With assurance of blessings: Lev. 18:5, (20:22), 25:18f.

Without assurance of blessing: Lev. 18:4, 26, (30), 19:(3), 19, (30), 37, 20:8, (22:9), 31, (26:2).

The texts listed are proposed by Lohfink, and we have put brackets around those which are not general admonition addressed to the people. The admonitions without assurances of blessing regularly have characteristic H motive clauses:

I am Yahweh (your God)/who sanctify you.

Of the two passages with assurances of blessing, 18:5 is formulated distributively. 25:18f could be interpreted distributively, but it tends toward an all Israelite scope of blessing.

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[1] Hauptgebot, pp. 92f. His examples from P, Ex. 31:13-17, Lev. 8:35, are not general admonition. The former is a specific command to observe the Sabbath, as are Lev. 19:3, 30, 26:2, the latter an admonition to Aaron and his family for a specific provision. Thus, we may surmize that P was not familiar with general admonition.

On the other hand, H possesses several warnings of dire consequences for disobedience: Lev. 18:26-30, 20:22f. The two units have some close similarities: Both warn against imitating the 'abominations' of the previous inhabitants of Canaan and attribute their down fall to these practices (18:24f, 27, 20:23). One can see from their fate that Israel should not duplicate their practices,

> lest the land vomit you out, when you defile it,
> as it vomited out the nation that was before you. (18:28, cp. 20:22b)

By every rule of logic and analogy, these warnings should be collective. Thus, it is quite startling to find 18:29 reading:

> For whoever shall do any of these abominations, the persons that do them shall be cut off from among their people.

The warning, thus, is distributive in spite of the example of the former 'nation.' It is assumed that the people will continue to exist, and individual violators will be eliminated from the community. We can observe the same distributive principle applied where we might expect a collective orientation in Lev. 20:4f:

> And if the people of the land do at all hide their eyes from that man, when he gives one of his children to Molech, and do not put him to death, then I will set my face against the man and against his family, and will cut them off from among their people, him and all who follow him in playing the harlot after Molech.

The logic of this passage would lead to collective guilt for countenancing Molech sacrifice, but God instead promises to sanction the guilty himself. There can be little doubt that the author of the paranesis of the Holiness Code does not envisage collective divine sanctions.

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It does seem, however, that he was aware of the 'logical' possibility of collective sanctions and specifically rejected it. One is reminded of Ezekiel 18:1ff, in which distributive justice is insisted upon as the principle by which Yahweh acts or will act henceforth. It is our opinion that Ezekiel is not positing a new view, but re-establishing the principle of legal accountability according to which the classical covenant operated. He had to affirm this principle, however, in the face of the collective thought of the prophets and the bitter experiences of communal history. We believe that the author of the H paranesis was affirming the same principle under the same circumstances.

We find several signs of Deuteronomic influence on these general admonitions and warnings, contrary to the formal analyses of von Rad and Lohfink.[1] The phrase,

> Keep my statues and my ordinances,

seems too close to Deuteronomy, and too unlike any other source, to write off as a 'similar form.'[2] Rather, it seems to us to be the influence of one tradition upon the other. The idea that the 'abominations' of the previous inhabitants brought them to grief appears, in our opinion, to have arisen in Deuteronomic preaching, as evidenced above all by Dt. 9:5, 18:12b. The general warnings against adopting the practices of the previous inhabitants, a much different idea from

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[1] Lohfink, ibid.; von Rad, Studies, pp. 25ff.

[2] The accumulation of plural nouns for law is concentrated in H and D. In H: Lev. 18:4, 5, 26, 19:37, 20:22, 25:18, 26:15, 43. Cp. also Lev. 18:3, 20:23, 26:3. See chapters two and three re Deuteronomy.

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joining them (Ex. 23:32f, 34:12f, 15f, Dt. 7:1ff), seems to have originated in Dt. 12:29-31, 18:9-14.[1] If H has come under the influence of D in these paraneses, we can attribute their collective orientation to D, an orientation which H breaks with at the same time that it uses it.

Blessings and Curses. Standing in tension, even contradiction, with the distributive divine sanctions in the general admonition of the Holiness Code are the concluding blessings and curses (c. 26:3-45). C. 26 shares enough of the linguistic stock of the motive clauses and general admonition of the Code to exclude, probably, a completely separate source.[2] We must simply conclude that the Holiness Code's process of formation was quite complex and included two contradictory tendencies. In fact, in the chapter itself we find a softening of the curses in 26:40-45, an offer of the opportunity to repent and be restored after exile.[3]

The major issue surrounding the concluding blessings and curses as we have already indicated, is what they may imply for the covenant tradition. The fact that Dt. 28 and Lev. 26 perform a similar function and yet neither can be shown to be heavily dependent on the other shows,

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[1] We would like to be able to prove this hypothesis more conclusively than we can. We surmize the priority of Deuteronomy from the general character of the two sources. Some phrases, such as 'vomit out (קיא) (Lev. 18:25, 28, 20:22), are unique to H in this capacity.

[2] Cp. 26:17, 26:3, 15, 43; 26:35, 45; 26:44f. Not extremely solid. 26:15, 25, on the other hand, are clearly not characteristic of H.

[3] Secondary, but source uncertain. The unit is distinguished from most of c. 26 by its impersonal style.

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according to M. Noth, "that both pieces are following an older tradition which they each stamp with their own special character."[1] Noth then goes on to refer to Dt. 27:15-26 as evidence of the older tradition.

The fundamental question, however, remains unclarified by this remark. Dt. 27:15-26, for example, curses "each potential offender against a particular prohibition."[2] We have noted that it was only one of a whole series of texts imposing divine sanctions distributively on violators of the law. But the very fact that the older covenant tradition does enunciate divine sanctions, and these against individuals, controverts rather than substantiates the assumption of older tradition behind Dt. 28 and Lev. 26. Collective blessings and curses are antithetical to the distributive divine sanctions which we have found in the older sources.

Given these circumstances, the origins of the language and concepts of Lev. 26 become an open question again. Its ancient, traditional character cannot be considered self-evident. We have already observed that Dt. 28 is, in its present collective format, a creation of the author of Deuteronomy, who consciously revised the covenant on the model of a suzerain-vassal treaty. Lev. 26 may have a similar origin. We must explore this possibility by attempting to date the extant chapter and then investigating the origin of its traditions.

The punishment of communal deportation and dispersion in itself (Lev. 26:33, (36), 38f) requires a date no earlier than ca. 750-740 B.C.

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[1] Leviticus (OTLib), p. 196.

[2] Ibid.

N. Gottwald has called attention to the fact that deportation of defeated populations began with Tiglath-pileser III, or perhaps slightly earlier.[1] Enslavement and foreign exile had happened to individuals and small groups from time immemorial, but the Assyrian Empire initiated the policy of resettling masses of a population.[2] The depiction of the conditions of the exiles (vv. 38f) is characteristic of the literature of the Judean exile[3] and probably does not antedate it. We concur, thus, with those who date the final composition of the Holiness Code, or at least this chapter, in the exilic period.[4]

The relationship of H to classical prophecy needs to be re-examined. The relationship of the Hexateuchal traditions and prophecy has been the subject of unending debate. Where the two share themes and ideas, the scholars of the Wellhausen era, especially, gave priority to the prophets.[5] The next generation of scholars tended to see influence flowing chiefly from the sacred traditions into prophecy. For example, von Rad says of divine judgment of Israel:

> The favourite way of putting it, that this is simply the emergence of new religious ideas, and as such only a new understanding of the relationship between God and man, does not square with the fact that in this matter the prophets most decidedly took as their starting-point the old traditions of Jahwism. It was these that formed the foundation of their attack, and time and again the prophets took them as the basis of arguments with their

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[1] N. K. Gottwald, All the Kingdoms of the Earth, Israelite Prophecy and International Relations in the Ancient Near East, (New York: Harper and Row, 1964), pp. 97f. There is a slight difficulty inasmuch as Amos evidently announced the sentence of deportation prior to the establishment of that policy by Tiglath-pileser III.

[2] Ibid., p. 98. [3] E.g., Dt. 28:63ff and in the prophetic books.

[4] See chapter two.

[5] Cp. Wellhausen, Prolegomena, Ch. xi, pp. 411-425.

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> audiences. Thus, as far as the old Jahwistic tradition was concerned, the prophets and their hearers were on common ground...[1]

This way of putting the relationship of prophets and the sacred traditions remains dominant today. We believe that it is time to re-assess the situation. There needs to be greater balance, for the origins and influences were more likely reciprocal. At least this possibility cannot be rejected without consideration.

Both the pattern of Lev. 26:14-39 and some specific units within it appear to us to have originated in classical prophecy. Let us consider the pattern first. Unlike Deuteronomy 28:15-46, which consists of many single units, Lev. 26:14-39 is constructed on a unifying plan. Yahweh will inflict one after another punishment to warn Israel (vv. 14-26) before he ends its existence (vv. 27ff). It has been noted that this pattern is found elsewhere in Scripture. In the Hexateuch, the plague narratives (Ex. 7-11) follow this plan.[2] The purpose of each plague is to force the Pharaoh to free the Israelites. Plague follows plague because the Pharaoh agrees to release them to get the plague to cease, then reverses his decision once it has ceased. His stubbornness is analogous to the people's continuing disobedience in Lev. 26:14-39.[3]

An even closer parallel is found in Amos 4:6-12.[4] Amos lists a series of recent reversals as warnings to the people. As in Lev. 26:14-26, the people do not repent in response to the warnings, so a final reckoning comes (Amos 4:12, Lev. 26:27ff). There are several reasons for tracing the origin of the motif of 'history of warnings' to Amos rather than to covenant tradition:

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[1] OTTh. II, p. 179.

[2] Noth, Leviticus (OTLib), in loc.

[3] Some differences: There is no implication of changing their minds during blows in Lev. 26. Ex. 7-11 has a different purpose, to demonstrate Yahweh's power to Israel. Vis-a-vis the pharaoh, the plagues have something of the character of 'revelatory blows.'

[4] Noth, Leviticus (OTLib), in loc.; also H. Graf Reventlow, Das Amt des Propheten bei Amos ("Forschungen zur Religion und Literatur des Alten und Neuen Testaments," 80; Göttingen: Vandenhoeck & Ruprecht, 1962), pp. 86ff; W. Brueggemann, "Amos 4:4-13 and Israel's Covenant Worship," VT 15 (1964), pp. 1-15.

(1) The 'logic' of this history is of a narrative kind. Am. 4:6ff is a narrative of the events of his time. Amos reads these events, which would have been understood by his contemporaries as simply separate and unconnected 'acts of God,' as possessing an inner connection. They had an all-Israelite significance in his mind, for they were marching irreversibly toward a final reckoning. Lev. 26:14-39 does not purport to be a direct perception of events, but a series of 'curses' which could be expected any time Israel was disobedient.

(2) The inner necessity of the events is more appropriate to prophecy, with its expectation of divine judgment, than to covenant thought, with its expectation of an indefinite continuation of peace and prosperity. For the prophet, divine judgment was inevitable, while for the later covenant it was an avoidable possibility. Lev. 26 lacks the truly conditional spirit of a treaty, for it follows Amos' perception of an 'inexorable logic' leading toward final judgment.

(3) Lev. 26 announces divine interventions and their consequences in first person Yahweh. Of course, the logic of the Code would seem to dictate this, viz., Yahweh speaks to his people. Nevertheless, the fact that the only Biblical parallel speech form is to be found in classical prophecy should be cause to ponder. If one were to encounter Lev. 26:14-39 outside of its present setting, he would conclude that it was a

compendium of prophetic sentences.

(4) We believe that Amos 4:6ff has priority on theological grounds: The perception of the serious possibility, as opposed to a nebulous one, of collective judgment is politically and theologically radical. Collective evil is not a legal or political concept, but a synthetic perception which sees the specific evils of the society as expressions of an underlying spiritual malady permeating the private lives and public institutions of an entire people. Such a perception could arise only out of time when such a condition did in fact exist and yet certain persons were capable of transcending it. The serious possibility of collective judgment for collective evil must have emerged out of the perception of its moral necessity. The reformist consciousness is expressed in the conditional framework, judgment unless so and so. Such a conditional mind-set is a softening, in our opinion, of the radical consciousness of inevitability. We shall endeavor to substantiate this position further in the final chapter.

Several of the punishments in Lev. 26 could have originated, in our opinion, only among the classical prophets, because they are original, ironic and vicious in a way that traditional curses are not. For example, destruction of the high places and altars (v. 30a) is characteristic of prophecy in which indictment and sentence has been fused.[1] Am. 3:14f is a very close parallel and probably the origin of this 'curse.' V. 30b,

I will cast your dead bodies upon the dead bodies of your idols,

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[1] See Westermann, Basic Forms, pp. 178f, 180f.

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has the same fusion of indictment and sentence with a vicious irony. Likewise, the reversal in vv. 27b, 28a, which sounds much like Hos. 4:6. God's refusal to 'smell your pleasing odors' (v. 31) was probably taken up from 'prophetic torah' (e.g., Am. 4:4f, 5:21ff, Is. 1:10ff). The portrayal of the degree of humiliation and fright before the enemy (vv. 36ff) recall prophecies of God's relentless pursuit of his people (e.g., Am. 9:1ff). The dramatic portrayal of the lack of food during siege (v. 26) is characteristic of prophetic sentences, not of curses. The final phrase of v. 26 has an ironic touch characteristic of Hosea (e.g., 4:10). To the irony of v. 25, compare Am. 5:19.[1]

Other punishments in this chapter are related to Dt. 28. For example, vv. 16b and 20 are prose formulations of Dt. 28:31 (cp. v. 32) and 28:38-40 respectively. The Deuteronomic examples are distributively addressed and possess poetic meter, indicating their priority. On the other hand, v. 16a is parallel to the collectivized curse in Dt. 28:22. We attributed the latter to Deuteronomy's Assyrian borrowings. V. 19 is a prose version of Dt. 28:23, also drawn from Assyrian curses. In these latter cases, the author of Lev. 26 must have borrowed directly from Dt. 28, for they had no prior history in Israelite culture.

The one punishment unique to Lev. 26, the attack of the wild beasts (v. 22), is hardly sufficient to establish the independence of the entire table. This danger was mentioned in another form in the conquest tradition to explain why God left the Canaanites in the land

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[1] The military images sound prophetic too, but they could derive from elsewhere.

(Ex. 23:29b). Here the author must simply have taken up a traditional scourge.[1]

To summarize, we have argued that Lev. 26 does not substantiate the existence of pre-prophetic collective divine sanctions as a part of the covenant. The passage can be dated from the situation of the exile. Its traditions are derived from classical prophecies of judgment and to a lesser degree from Dt. 28. Its format combines features of classical prophecy and treaty blessing and cursing formulae.

Summary and Conclusions. The general admonition and warning of the Holiness Code was influenced directly by the language and thought of Deuteronomy. However, the author of H eschews the collective logic of this paranesis to insist on distributive sanctions. He was endeavoring to re-assert the principle of distributive justice, which belonged to the sovereign-subject model of the covenant, in the face of prophetic and Deuteronomic thought.

The concluding blessings and curses were composed or at least completed during the exile. The plan of the curses, a 'history of warning' concluding with complete judgment, was derived from Am. 4:6ff. The majority of the 'curses' were drawn from the prophets too. Most of the remainder can be traced to Dt. 28. The fact that the author of Lev. 26 was directly dependent upon Dt. 28 for its content suggests that the idea of concluding a legal code with blessings and curses was also borrowed from Deuteronomy. However, unlike his predecessor, he observes an inexorable logic of events leading to final judgment. Hence, his curses are as near to the unconditionality of prophecy as to the conditionality of Dt. 28.[1]

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[1] Weinfeld, "Assyrian Treaty Formulae," _op. cit._, pp. 424, 426f, evidently intends to argue that Lev. 26 is rooted in ancient Israelite curse-traditions on the basis of its agricultural imagery and attack of wild beasts.

Priestly Law

Aside from the Holiness Code, the Priestly source does not contain a table of blessings and curses. In fact, P's conception of the covenant between Yahweh and Israel as an unconditional relationship militates against the existence of such a table. This situation presents some difficulty to the interpreter, for P is quite conscious of the threat of collective judgment. The covenant traditions of J, E and the Cov. Code do not broach the topic of collective sanctions and thereby avoid the problem. The classical covenant can be termed non-conditional. P, on the other hand, enunciates an unconditional covenant in full awareness of the dangers of the divine wrath to the people.

When we speak of 'collective sanctions' in P, we mean the community's suffering a natural or historical disaster as a result of violation of the law, either by the community or by some importantly placed person within it. Aside from the term 'wrath' (קצף),[2] the Priestly source uses the term נגף, probably to be translated 'plague,' to describe the action of the sanction.[1] The community could sustain such 'plagues' if remedial action was taken immediately (e.g., Num. 17:11f). Thus, collective sanctions did not necessarily mean total annihilation of the people.[2]

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[1] Cp. Westermann, Basic Forms, pp. 205-209, on the disintegration of the unconditional prophecy of judgment and even an adequate comprehension of it: After the exile the prophets were understood to have simply called the people to repentance and the people did not respond. This is very similar to the view of the blows in Lev. 26.

[2] Lev. 10:6, Num. 1:53, 17:11, 18:5.

Collective sanctions are not presented in P as sanctions to commands. Not only does P lack blessing and cursing formulae, it lacks statements in the form,

> If you do/do not . . ., God will bless/curse you = people.

Collective sanctions are presented as the rationale for provisions and policies, e.g.,

> Lest you die and lest wrath come upon all the congregation (Lev. 10:6).

In another example, the Levites are to act in behalf of the people in the sanctuary in order that the people, who have commerce with the everyday world, not come into contact with holiness and suffer the consequences (Num. 8:19). The divine wrath is a 'fact' with which the law must deal rather than the ultimate sanction of the law.

The cultus was organized to protect the people from the divine wrath.[3] As such, it was set up to make particular persons accountable for their own acts. The laity are distributively accountable for their acts (e.g., Gen. 17:14, Lev. 7:25, Num. 5:17). The clergy are accountable for their acts in behalf of the community (e.g., Ex. 28:43, Lev. 10:1-3, Num. 18:32). The structure of the cultus protected the

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[1] Ex. 12:13, 30:12, Num. 8:19, 17:11f, Josh. 22:17.

[2] Plague was a normal subject for a curse.

[3] See chapter five above.

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community by distributing accountability.

The Priestly law-giver believed, however, that distributing accountability was not sufficient to assure protection of the community. The entire community might sin in ignorance (Lev. 4:13-21, Num. 15:22-26) and they would, as a people, naturally accumulate a burden of guilt over a year (Lev. 16). Either of these would lead to judgment if they were not cancelled. To protect the people, P has rites of atonement which remove their guilt. Moreover, the priests bore the people's sin in themselves (Ex. 28:38) and performed daily rites which atoned for it (Lev. 10:17).

To summarize, the Priestly writer does take notice of collective sanctions, not really as sanctions of commands and prohibitions, but as dangers from which the cultus, commanded by Yahweh, was established to protect the people. Accountability was as much as possible made distributive. Communal guilt was atoneable. Since the covenant is eternal, it must have been assumed that God would assure the proper functioning of the cultus. When 'plagues' did break out, acts of atonement would stop them.

Summary and Conclusions

We set out in this chapter to determine the party subject to divine sanctions in the classical, Deuteronomic and Priestly covenantal literature. If the party subject to divine sanctions was a violator of the law, the covenant model operative was the relation of a sovereign-judge to his subjects. If the entire people was subject to divine sanctions, the covenant would be comparable to a suzerain-vassal relationship. This simple, straight-forward test was applied to texts from J, E, the Cov. Code, Dt. 27:15-26, Dt. 28, Lev. 26, and P.

Our analysis and findings ran counter to the assumptions and interpretations of much contemporary Biblical scholarship. We found that the classical covenant envisaged God's sanctioning action as taking effect in individuals, violators of the divine law. Divine sanctions were constructed on analogy with legal sanctions. God acted as a judge who administered justice distributively among his subjects.

Dt. 28 promises divine blessings to the people for obedience and warns them of dire consequences for disobedience. The Deuteronomic covenant imposed collective duties upon the people of Israel and thus had a logical place for divine sanctions directed to the people. The author consciously modeled his divine sanctions upon blessing and cursing formulae of the suzerain-vassal treaty.

In spite of the absence of collective duties in Lev. 17-25, Lev. 26 also has promises of blessings and threats of curses as a conclusion to a body of law. The idea of concluding the law with such a table, and a few of the curses, probably derives from Dt. 28. On the other hand, the motif of 'history of warnings' and most of the curses have been drawn from prophecy.

P knows of the danger of divine wrath breaking out in the community, but does not allow for the possibility of covenant termination. Various mechanisms have been established to distribute accountability and to atone for communal guilt.

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We have endeavored to establish the correlation of demand and accountability within covenantal thinking. If demands are imposed distributively, legal and divine sanctions will likewise be imposed distributively. Collective sanctions, with the exception of the Holiness Code, presuppose collective demands. We have found little evidence to support the thesis that law could be addressed to Israel distributively but the community be held accountable before God collectively for legal violations. When collective accountability makes its appearance in the Deuteronomic covenant, this is made explicit in collective duties as well as sanctions.

CHAPTER VII

THE PARTY SUBJECT TO DIVINE SANCTIONS ACCORDING TO NARRATIVE, PSALMNIC AND PROPHETIC TEXTS

There has developed over the last half-century a curious unanimity among scholars on the question of collective accountability. In order to attack the thesis that the classical covenant was modeled upon the suzerain-vassal treaty, we must attack not only the specific thesis, but the entire framework of thought which has produced and supports it. A host of textual interpretations and concepts have been carved out over the last fifty years to fit into the system and lend it support. If one challenges one point, some other part of the system is thrown against him. Finally, after much frustration, we have accepted the challenge to dismantle the system piece by piece, text by text. The task is massive, but only a total refutation will succeed at all.

In this chapter we shall complete our task of eliminating the pillars of the suzerain-vassal interpretation of the classical covenant by examining various narrative, psalmnic and prophetic texts which speak of divine sanctions. We expect to find that texts composed under the classical covenant have Yahweh sanction violators distributively and later texts have him sanction or threaten to sanction the entire people.

We shall begin by examining several texts which have been interpreted to assume corporate responsibility for acts of individuals.

Second we shall analyze texts with divine sanctions for mass violations. Finally, we shall trace the history of several speech forms in which divine sanctions play a major role.

Collective Consequences of Individual Acts

Recent studies of Israelite law have maintained that the culture assumed that the effects of an individual's violation of the law or decency could be felt in the broader community.[1] Here we shall examine the narrative and legal texts on which this thesis is based and determine the thought-complexes involved. The results of our investigation have obvious relevance to our thesis that the classical covenant possessed a distributive understanding of law and divine sanctions.

Let us first distinguish between two related but distinct questions:

(1) Collective guilt for the violations of individuals,

(2) Acts of God against the community for acts of individuals.

These two questions are easily confused because one naturally assumes that if God strikes a blow against the people for an act of one of its members, he is holding the community accountable. Once one begins to analyze the texts, however, the assumption becomes less self-evident. Let us begin by considering texts in which the people suffer for the actions of their king, then texts they suffer the effects of an unknown crime, and conclude with texts in which the people seek to purge guilt

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[1] E.g., W. Preiser, *op. cit.*; Koch, K., *op. cit.*, and works cited by Porter, *op. cit.*, p. 361.

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from their midst.

Ruler Punishment. D. Daube has discovered one thought-complex in which acts of individuals lead to communal suffering without any implication of collective accountability. He calls this theory 'ruler punishment.'[1] 2 Sam. 24 recounts an example of ruler punishment. A plague strikes the land as divine punishment of David. The people suffer for the act of their king. However, there is no thought of their being held accountable.[2] To the contrary, they are considered innocent victims:

> Now look, I have sinned and gone amiss -
> But these sheep, what have they done? (2 Sam. 24:17)

According to the theory of ruler punishment, the subjects of a king are his possessions. If they are weakened or destroyed, the king himself suffers the loss. It is quite common to find this kind of thinking with regard to the king's army, his family and retinue, and his property, but the same view can be applied to the kingdom as a whole.[3]

Revelatory Blows. Another thought-complex which involves communal suffering for acts of individuals might be called 'revelatory blows.' Let us consider three texts which belong to this category:

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[1] Daube, op. cit., pp. 160ff.

[2] 2 Sam. 24:1a might imply that ultimately Yahweh was punishing the community for some unknown reason. It is probably an editorial superscription by someone who did not quite understand the original thought-complex.

[3] Also Gen. 20:9, cp. 12:17. There the 'ruler punishment' is combined with a 'revelatory blow.'

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Text	Violation	Act of God
Josh. 7	Herem violation	Military failure
1 Sam. 14:23b-46	Broken oath	No oracle
2 Sam. 21:1-14	Broken treaty(murder of Gibeonites)	Drought

In each of the cases an offender has gone unpunished for no fault of the community. The offense had either gone undetected (Josh. 7, 1 Sam. 14:23b-46) or had no legal remedy (2 Sam. 21:1-14).[1] God strikes a blow against the community.[2] In 2 Sam. 21:1-14 the blow leads to an inquiry of Yahweh to determine why he is displeased and he answers that

> There is bloodguilt on Saul and on his house
> because he put the Gibeonites to death. (v. 1)

The other two are solved by lot (Josh. 7:14ff, 1 Sam. 14:40ff).

The thought-complex involved here seems to have been wide-spread in the ancient world. Probably the most famous example is the Greek drama Oedipus Tyrannus, which begins with a divine blow against the city of Thebes. An inquiry is made of Apollo, who answers that guilt must be purged from the land. The remainder of the drama is devoted to finding the guilty person.[3] The very fact that this thought-complex was a wide-spread history-of-religions phenomenon demonstrates that it was independent of a suzerain-vassal model of the relation of people and deity.

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[1] A treaty of this sort was not under court jurisdiction. Moreover, as king, Saul would have been immune from legal sanctions. Interestingly though he was acting as a king, our narrative limits the guilt to him.

[2] 'Community' is a relative concept: the unit of the militia in 1 Sam. 14, originally also in Josh. 7; all-Israel in 2 Sam. 21.

[3] Sophocles, "Oedipus the King", Greek Tragedies, ed. D. Grene and R. Lattimore (Chicago: Univ. of Chicago Press, 1960). A section of the dialog runs:
Creon: I will tell you, then, what I heard from the God. King Phoebus in plain words commanded us to drive out a pollution from our land, pollution grown ingrained within the land; drive it out, said the God, not cherish it, till its past cure.

It is often assumed that these blows mean that the community is being held accountable for the guilt of an individual. However, the pattern suggests that the real purpose of the blow was not to punish or sanction, but to call attention to the breach of the legal order so that the violator could be apprehended and the order restored. God is displeased with the violation and strikes a blow against the people to initiate sanctions against the violator. Thus, he would be acting to protect the legal order against violations.

One of our examples, Josh. 7, does depict the individual's offense as bringing guilt upon the people:

> Israel has sinned. They have transgressed my covenant which I have commanded them. They have taken some of the devoted things. They have stolen, and lied, and put them among their own stuff. Therefore the people of Israel cannot stand before their enemies.. I will be with you no more unless you destroy the devoted things among you. (7:11f)

This passage has come under the influence of classical prophecy and Deuteronomy.[1] The author, like the author of Deuteronomy, understands

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Oedipus: What is the rite of purification? How shall it be done?
Creon: By banishing a man, or expiation of blood by blood, since it is murder guilt which holds our city in this destroying storm.
Oedipus: Who is this man whose fate the God pronounces?...
Creon: The God commanded clearly: let some one punish with force (Laius') murderers. (11. 95-107).

[1] Note, for example, the prophetic formula in v. 13. 'Therefore' beginning v. 12 also operates, as it does in some prophecy, to signal a sentence following an indictment. The phrase 'covenant which I commanded them' is a tip-off to its Deuteronomistic authorship. The collectivization of law and guilt is also evidence of this.

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the law to be a collective demand and when an individual violates it God's blow is a divine sanction against the community.[1] Not only does the act of God call attention to the violation, it also warns the people to eliminate the evildoer or suffer further divine judgment.

1 Sam. 14:23b-46 and 2 Sam. 21:1-14 represent the older, classical view of the legal order. God strikes a blow against the community to call attention to a violation of divine law or a vow or oath protected by him. He acts as a 'judge' maintaining the legal order. Josh. 7 represents the Deuteronomic interpretation of the law and covenant. The act of an individual brings guilt and sanctions on the community. Initially, the sanctions warn the people to eliminate the evildoer. If they do not, the sanctions will become total collective judgment.

Purgation of Guilt. Finally, let us take up the question of collective guilt for the acts of individuals. Let us begin by summarizing the conclusions of W. Preiser's study, "Vergeltung und Sühne im altisraelitischen Strafrecht."[2] In Biblical law, Preiser maintains, the application of sanctions had the purpose of 'atonement' or 'expiation' rather than retribution. Serious violators of the divine law were eliminated to 'purge' guilt from the community. The people were threatened with guilt and broken relationship with God when a crime occurred and had to 'expiate' the guilt by 'rooting out' the evildoer. Thereby the relationship was restored. In this process the people were represented by the courts.[3]

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[1] The Herem law is collectively addressed in Dt. 7:2, 16, (25f), 20:16ff.

[2] Festschrift für E. Schmid, pp. 7-38. [3] Ibid., pp. 35-38.

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The picture that Preiser paints of Israelite law appears to supplement our study of Deuteronomy, but it contradicts our conclusions regarding the legal traditions of the classical covenant. If the entire community was held accountable for a crime in its midst and was required to 'root out' the perpetrator to atone for its collective guilt, then the community owed the collective duty of imposing sanctions. We have found this to be the case in Deuteronomy, but not in the older covenant. It will be necessary for us, if we intend to maintain our case, to re-examine the evidence on which Preiser builds his case.[1]

The purgation formula, which reads literally, 'burn out evil from Israel,' is actually a distributive idea. The extermination of the perpetrator of a crime will cleanse the people of evil in its midst. It is analogous to removing 'a weed from a flower garden' or 'a rotten apple from a bushel.' It would be collective only if the evil/guilt were thought to belong to Israel.

(a) There is one example of the purgation formula in the older narrative tradition: Judges 20:13a.[2] Let us cite it:

> What is this evil which has occurred among you? Now therefore give up the men, the depraved men who are in Gibeah, and let us put them to death and purge evil from Israel. (20:12b-13a)

This is a settlement proposal sent from the representatives of the tribal league to the tribe of Benjamin. The initial question, an

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[1] Actually, he also depends upon the three passages just studied in the foregoing section as well as the two which follow.

[2] We see no reason to doubt the antiquity of this verse, though the narrative as a whole has some 'problems,' esp. the size of the military units.

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indicting question in form,[1] indicates that the tribe has been brought to trial and offered terms of settlement. The thrust of the proposed settlement is that the tribe will not be held accountable for the acts of its members if it will co-operate with the league in bringing the culpable to justice. The solidarity of the tribe with the guilty is not a legal fiction, but a matter of communal self-identity: Will Benjamin harbor the offenders in solidarity with them or will it co-operate and thus exonerate itself of complicity? There are, thus, two levels of accountability, the perpetrators and the tribe. There is no legal fiction in the accountability of the tribe. The tribe's solidarity with the offenders is a factual one of communal feeling. Benjamin chooses to stand with the offenders and thus violate the communal bonds of the tribal league.

The question of Benjaminite guilt, however, is irrelevant to our topic. The settlement proposal contains the purgation formula,

> and let us purge evil from Israel.

Except for this formula, there is no hint of all-Israelite guilt for the atrocity. There is no mention of divine sanctions against Israel. The people are horrified by the outrage in their midst (e.g., Judg. 20:6, 12), but they are not afraid of repercussions against the league as a whole executed by Yahweh. Yahweh co-operates with the league in imposing sanctions on the offending tribe.

We contend that 'purgation' is not equivalent to 'expiation' in this passage. Rather, it simply means the removal of the guilty party from the community. The people do not atone for the atrocity by eliminating the perpetrators: It has not incurred guilt from the crime. The tribal league and Yahweh together seek to vindicate the communal order. The atrocity committed by the men of Gibeah broke community and threatened to rip apart the tribal league. 'Israel' was only an emerging collectivity, a community in formation. The narrative shows that there was a share of communal identity (e.g., 19:11-13), but that it was fragile. The tribe of Benjamin felt greater solidarity with the offenders than with the broader community. Clearly the law, protecting community, had to be vindicated to maintain the credibility of the league.

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[1] Boecker, *op. cit.*, p. 30; cp. Westermann, *Basic Forms*, pp. 142-144.

After the events had run their course, the people took the decimation of Benjamin as a blow suffered by the entire people at the hand of Yahweh (Judg. 20:3). However, it was not understood as a divine sanction. The sequence of events was a mystery over which the people lamented. The actual lines of guilt and sanctions could be traced, but the people wanted to know why the entire sequence of events had occurred at all.

(b) Deuteronomy 21:1-9 preserves a tradition which in its origin was an act of ritual expiation for a community. An unsolved murder had to be 'expiated' by the town nearest the crime. The rite presupposes that the community was in danger of guilt for the murder because the legal process had not located the person to which it rightfully belonged. The ritual evolved into essentially an oath of clearance for the authorities of the town.[1] Thereby the ritual element of expiation was subordinated to the legal issue of communal complicity. By establishing its innocence, the town was no longer potentially accountable.

In Deuteronomy the rite has become an oath of clearance performed as an *expiation* for the *entire people*. When a major offense occurs in Israel, such as murder, according to Deuteronomy the people were implicated in its guilt. This is indicated by the rather paradoxical request in Dt. 21:8:

> Forgive, Yahweh, your people Israel . . . and set not the guilt of innocent blood in the midst of your people, but let the guilt of innocent blood be forgiven them.

Yahweh is asked both to forgive the people and not to impute guilt to it. The performance of the ritual, or, by analogy, the purgation of the community of an offender, 'expiates' the (transferred) guilt of the community and protects it from a (further) transfer of guilt.[2]

Summary. We have found no evidence that the people of Israel were held accountable for offenses of individuals in this series of texts which are often alleged to possess or presuppose such an idea. The only exceptions derive from the Deuteronomic-Deuteronomistic sphere of authorship. We did find that the people might suffer as the possessions of a king for his offenses and God might strike a blow to call attention to an unpunished, and usually unknown, offense.

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[1] This is signified by washing hands over the victim.

[2] Exactly the same duality which we observed above in Josh. 7:11-13.

Perpetrators of major crimes were 'purged' from the people to vindicate community and its legal order.

Collective Consequences of Communal Acts

Although we did not find collective accountability for isolated acts of individuals, we might expect mass offenses to implicate the entire people. Here, certainly, the sovereign-subject model of the covenant, according to which Yahweh rules over a legal community, could be expected to break down. When the community rebels in mass, we would expect Yahweh to step out of his role as sovereign to punish the entire people as a suzerain would a rebellious vassal.

It is not infrequently alleged that the wilderness traditions recount instances in which Yahweh either threatened to or actually did sanction the entire people.[1] Likewise, the story of the fall of Sodom and Gomorrah (Gen. 18f) is considered to be a *locus classicus* of the theory of corporate responsibility.[2] It is incumbent upon us to take such a significant theme into our account of divine sanctions under the classical covenant.

Rebellion in the Wilderness. The narratives of Israel's sojourn in the wilderness have a recurring theme of the people's 'murmuring' and rebellion against Moses and Yahweh. W. Zimmerli finds the hint of the prophetic message in this theme:

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[1] For example, W. Zimmerli, *The Law and the Prophets*, p. 65.

[2] For example, Daube, *Studies*, pp. 155ff.

> That (the possibility of collective judgment) lay dormant in the commandments is shown by the old narratives of the nation's sin during the desert wandering. According to Exodus 32:7ff only the intercessory mediation of Moses saved the people from destruction by its God after their sin with the golden calf. Again according to Numbers 14:11ff, in connection with Israel's disobedience over the report of the spies, the same thing occurs.[1]

Let us examine the passages to which he refers, and several others which involve murmuring and judgment, to determine whether the prospect of communal judgment, judgment of the entire people collectively, was held out by the texts.

The 'murmuring' (לון) of the people of Israel against Moses and Yahweh functions in several ways in the wilderness tradition. In many narratives, it issues in a favorable divine response rather than judgment.[2] That is, the people complain of a need and this need is filled. Clearly these texts do not pose the murmuring as an act of rebellion which must be punished. It is not certain whether murmuring should be considered blameworthy.[3]

When the murmuring is accompanied by an overt action of rebellion, the narrative action leads to the judgment of the rebels. There are four instances of rebellion and punishment. Dathan and Abiram, according to J, and Korah, according to P, led a rebellion against Moses'

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[1] *Loc. cit.*

[2] George W. Coats, *Rebellion in the Wilderness*, (New York: Abingdon, 1968), pp. 45-127.

[3] We need not discuss the difficult problem of whether rebellion was implied nevertheless: cp. *ibid.* We doubt it. The 'murmuring' functions analogous to lament. Moses-Yahweh are not expected to answer the charge, but to fulfill the expressed need. Cp. Westermann, "Struktur und Geschichte der Klage," *Forschung*, p. 294 on Dt. 1:27.

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leadership (Num. 16f).[1] When the scouts returned from their survey of Canaan, the discouraging report of the majority led the people to make an overt move to return to Egypt (Num. 13f).[2] When Moses was receiving the law on Sinai, the people make or have Aaron make a 'golden calf' to worship as the God who brought them out of Egypt (Ex. 32).[3] Finally, at Shittim the people join in the worship of Baal Peor (Num. 25:1-5).[4]

Each of these cases of rebellion is resolved distributively in the oldest layer of the narrative and each has been collectivized to a greater or lesser extent in subsequent layers. When Dathan and Abiram led their rebellion, they and their followers were swallowed up by the earth (Num. 16:25-33*). In response to the rebellion triggered by the report of the scouts, Yahweh appears at the tent of meeting and pronounces judgment on the rebels and grace to Caleb, the faithful scout:

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[1] Coats, *ibid.*, pp. 156ff. His source division, summarized on p. 162, is: J: Num. 16:1b-2aα, 12-15, 24bβ-26, 27aβ-31. The rest is P.

[2] *Ibid.*, p. 145. Coats' source division, summarized on p. 139, is: J: Num. 13:17b-20, 22a (22b), 23-24, 27-28 (29) 30-31; 14:1b, 4, 11a (11b-23a) 23b-24 (25a) 25b, 39-45. P: Num. 13:1-3a (3b-16a (16b)), (17a), 21, 25-26, 32, 33aα (33aβ), 33b; 14:1a, 2-3, 5-10, 26-38.

[3] There are several layers of material in this chapter, very few of which can be associated with Hexateuchal sources. According to our analysis, Ex. 31:18, 32:15f represent the missing part of the Elohist's account of receiving the law and have nothing to do with apostasy. The main strand of the calf story begins in 24:12-14, includes all or a part of 32:1-6 (two versions acc. to Noth, *Exodus* (OTLib), *in loc*), 32:17-18, 19?, 20, 35. There are two further versions of how Moses came to know of the calf (32:7-8, 9-14) and two further versions of the resolution (32:21-29, 30-34).

[4] The source is J: Noth, *Numbers* (OTLib), *in loc*. This tradition does not strictly speaking belong to the 'murmuring motif.' As we shall argue, it is connected linguistically to passages which are. In any case, the passage needs to be treated somewhere.

> None of those who despised me shall see (the land which I promised to give to them). But my servant Caleb, because he has a different spirit and has followed me fully, I will bring him into the land into which he went, and his descendents shall possess it. (Num. 14:23b-24)

The condemnation does not fall upon the people *per se*, but upon those who were unfaithful. If this includes most of the people, it is still a sentence formulated distributively. The next generation is not in danger, another indication that the people as a corporate body is not the party subject to sanctions.[1]

Ex. 32 has several resolutions: trial by ordeal (vv. 20, 35), an indiscriminate slaughter of the people by the Levites (vv. 25-29), and a threat of delayed judgment (vv. 30-34).[2] Of these, the trial by ordeal is the oldest.[3] Trial by ordeal is a legal mode of punishment operating on the principle of distributive justice. The scope of guilt and punishment is greater in Ex. 32 than in a normal trial, but a legal device nevertheless seemed the obvious solution to the author.[1]

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[1] Coats, *op. cit.*, p. 251, cp. also pp. 147ff, offers an entirely different interpretation: "The people who have murmured against Moses and Yahweh must die in the wilderness without seeing the promised land. This is a rejection of their rights as Yahweh's chosen people, the final principle of Israel's election theology. The rejection is absolute. Neither this generation nor its offspring shall have another chance to become the heirs to the election faith. The single exception lies in Caleb and his descendents." This interpretation seems to us to be gratuitous. Nothing in the passage suggests 'absolute judgment' and the fact that the unit belongs to the Hexateuchal narrative which proceeds to tell the story of the fulfillment of the promise for all the tribes makes a total rejection impossible.

[2] Ex. 33:1ff is not a sequel, for it has to do with 'trinkets,' not the making of a calf.

[3] The only way to account for the separation of v. 35 from v. 20 is to assume that the material between was inserted. According to Noth, *Exodus* (OTLib), *in loc.*, vv. 30-34 were inserted first, connecting directly to v. 20. Vv. 21-24, 25-29, which have been editorially fused, would have been inserted last.

Finally, the narrative of the people's apostasy to Baal Peor has two resolutions. According to Num. 25:3b-4, Moses is to 'hang' the 'head men' of the people in the sun 'for Yahweh' in order to avert Yahweh's wrath.[2] According to v. 5, each 'judge of Israel' is to kill those men over whom he is responsible who have 'yoked themselves to Baal Peor.' The former of these is an expiatory act to avoid collective divine sanctions, while the latter is distributive punishment. It is our contention that the distributive punishment (i.e., v. 5) is the original conclusion to the narrative: (1) Num. 25:5 agrees better linguistically with vv. 1-3a than do 3b-4.[3]

(2) The phrase 'wrath of Yahweh' (vv. 3b, 4b),[4] directed against

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[1] Again, Coats, *op. cit.*, p. 188, comes to opposite conclusions: "The polemic does not involve a negation of the principles of Israel's election. But neither is it simply a blow at the use of the calves at Dan and Bethel. Rather, the focus of the unit is on the negation of the covenant established between Yahweh and Israel through Moses on Sinai." The breaking of the tablets is supposed to symbolize the negation of the covenant. We must object that the breaking of the tablets is not an independent motif. It has a sequel in their remaking (34:1-4) and this is the only sequel. Again the narrative context makes a total negation impossible. All Israelites believed that the covenant was still in existence and had been initiated at Sinai. We believe that the editor who combined J and E incorporated c. 32 in the narrative to give a reason for a second (i.e., J's) versions (by 34:1-4). He probably introduced the breaking of the tablets himself (v. 19b) in order that they might be remade.

[2] Trans. acc. to Noth, *Numbers* (OTLib), *in loc*.

[3] Note the phrase: "Yoked themselves to Baal Peor" in v. 3a, 5b.

[4] וישב חרון אף יהוה מישראל, ויחר אף יהוה בישראל.

the people, appears to us to be a late-comer to the wilderness tradition. It is found, aside from Priestly material, only in Ex. 32:10, 11, 12 and Num. 11:1, 10, 33. Ex. 32:9-14 is Moses' prayer of intercession during the golden calf episode. It is attributed by most scholars to a late editor.[1] Num. 11:10 refers to the divine wrath prematurely and hence must be considered an interpolation.[2] Num. 11:33 breaks the narrative action of vv. 31-32: v. 33 has the people eating quail, whereas vv. 31f says that they were spreading them out around the camp to dry.[3] On this basis, we may conclude that the aetiology of the place name, describing a plague for 'craving' meat, is a secondary addition. Num. 11:1-3 is very similar to vv. 31f: It is an aetiology of a place name associated with an act of divine judgment. The difference is its lack of a specific narrative.[4] We would attribute the two aetiologies and v. 10 to the same editorial hand.

In fact, the evidence points toward a single editor who composed Ex. 32:9-14, Num. 11:1-3, 10bα, 33-35, 14:12-23a, 25:3b-4.[5] All of these texts share common phrases and see Israel as continually threatened with communal judgment.[6] Let us consider Ex. 32:9-14 and Num. 14:12-23a. These two intercessions of Moses are quite similar

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[1] See below. [2] Noth, Numbers (OTLib), in loc.

[3] Cp. ibid, in loc.

[4] 'Murmuring' itself leads to communal judgment by fire.

[5] Perhaps 34:1-4, 9b* too.

[6] They also view 'murmuring' as blameworthy and punishable, perhaps a late understanding.

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in language and thought. In both, Yahweh proposes to exterminate the people and start anew with Moses. This is completely out of place in the scout story, for Caleb, not Moses, would logically receive that promise.[1] In each, Moses persuades Yahweh that judgment of his own people would defame his name among the other nations.[2] In Ex. 32:9-14, he recalls to Yahweh the promises he made to the patriarchs, and in Num. 14:12-23a, he reminds him of his promise to pardon sin.[3]

Not all of the collective divine sanctions in the wilderness tradition can be attributed to this one hand, however. Both of the later resolutions of Ex. 32, i.e., Levitical slaughter and delayed punishment, have a collective tendency, if not a completely collective judgment.[4] The Korah rebellion, the Priestly parallel to Dathan and Abiram, has collectivized the threat involved in the rebellion.[5]

To summarize, many of the accounts of murmuring in the wilderness do not involve rebellion and punishment. Those which do are resolved distributively in the older layers of the narratives. Dathan and

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[1] Coats, *op. cit.*, pp. 147f; Noth, *Numbers* (OTLib), *in loc*.

[2] Coats, *ibid.*, pp. 147, 186, 191.

[3] *Ibid*. Note that this understanding of Ex. 34:6f is the same as the interpolations in 34:9.

[4] Moses' intercession in Ex. 32:30-34 mentions a danger to the people and Moses offers to suffer in their place. Yahweh rejects this possibility for distributive judgment at a later time. The indiscriminate slaughter by the Levites (32:25-29) presupposes the guilt of all. According to Coats, *ibid.*, pp. 65ff, the original 'ordination' of the Levites had nothing to do with slaughter. The present version, he maintains, is quite late.

[5] Num. 16:20-22. Cp. Daube, *Studies*, p. 156.

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Abiram raised a rebellion and were destroyed along with their followers. The majority of the scouts and the people threatened to return to Egypt and Yahweh put this rebellion down by sentencing those who despised him to non-participation in the conquest. When the people made a 'golden calf' while Moses was on Sinai, they were subjected to an ordeal of drinking water with the ground-up calf in it. The defection of the people to Baal Peor ended with the extermination of the defectors by their judges.

All of these traditions were subsequently interpreted collectively. One editor in particular has given the entire wilderness sojourn a threatening mood. The same mood continues in P. We would suggest that the beginning of classical prophecy was the *terminus a quo* of this perspective on the rebellions in the wilderness.

Genesis 18:23-33. This unit is a part of the Yahwist's account of the destruction of Sodom and Gomorrah. He has used this story as an opportunity to speculate theologically on the nature of divine judgment.[1] Although it does not deal with Israel and its covenantal structure, it may afford insight into the Israelite understanding of divine sanctions.

An 'outcry' has been raised to Yahweh, the judge of the world, against the cities of Sodom and Gomorrah and he has decided to investigate to determine whether they are guilty as charged (Gen. 18:

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[1] Cp. Westermann, "Arten der Erzählung in der Genesis," *Forschung am A.T.*, pp. 72f.

20f). If so, he will destroy them. Prior to the investigation, Abraham and Yahweh discuss the issue of communal judgment (18:23-32). Abraham's basic concern is:

> Will you really destroy the righteous with the wicked? (v. 23)

He proposes an example:

> Suppose there are fifty righteous persons within the city. Will you then destroy the place and not spare it for the fifty righteous who are in it? (v. 24)

Yahweh answers that he would spare the city of Sodom if there were fifty righteous persons in it, or forty-five, forty, thirty, twenty, or even ten. The author has shown that the judge of all the earth would not

> slay the righteous with the wicked, so that the righteous fare as the wicked. (v. 25)

The 'messengers' receive an abusive reception from the citizens of Sodom (Gen. 19:1-11), so only Lot and his immediate family are saved (vv. 12ff) from the destruction of the cities (vv. 24f).

It is commonly held that the Yahwist is discussing the principle of collective guilt. Hence von Rad makes a typical assertion regarding the conception of guilt in ancient Israel as a part of his exegesis:

> Israel during its more ancient period was subject both in earthly judgment as in divine to the law of collective guilt. This proceeds from the deeply rooted solidarity of a community incriminated in any felony, a solidarity with fixed limits from which the individual could not simply be released. That is true of the blood ties of the family and tribe as well as the city community, because the individual with his subjective responsibility is not actually free with respect to the community. (See Gen. 20:9, Josh. 7:24ff; esp. Deut. 21:1-9).[1]

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[1] Genesis (OTLib), p. 207. We will take up these parallels at various points.

Previous scholars, he says, have normally taken Gen. 18:23-33 to be a protest against collective guilt, but he challenges this interpretation:

> This question ("Will you destroy the righteous with the wicked?") shows that the conversation is doubtless the expression of very unyielding, penetrating theological reflection; not one that forces its way from collectivism to individualism, but one that dares to replace old collective thinking with new.[1]

In antithesis to the entire exegetical history of this passage, we contend that Gen. 18:23-32 does not revolve about the question of collective guilt. The Yahwist assumes quite naively that the wicked are wicked and the righteous righteous. There is a completely distributive imputation of guilt and righteousness, and this is precisely what creates problems for him. The wicked should be punished. The question he asks is whether God will destroy everyone to punish the guilty.

The nearest the passage comes to the concept of collective guilt is the awareness of mass wickedness which might jeopardize the entire society. The righteous might be unrighteously punished along with the guilty. The answer that the author comes up with is that even mass wickedness will not jeopardize the society unless almost everyone is guilty. God is more concerned to save the tiny minority of righteous persons from injust suffering than to punish the guilty.[2] The premise of his thought is that if the righteous fare the same as the guilty, then the entire order of right and wrong is threatened. One might

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[1] *Ibid.*, p. 208.

[2] An 'individualistic modern man' could ask the same question, but he probably would not be as confident about God's concern for the righteous.

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paraphrase his thought: It is better that the judge of the world err in the direction of allowing some to escape punishment than allowing any innocent to suffer. This is a perennial question in the administration of justice.

Gen. 18:23-33 and 19:24f do presuppose the possibility of divine sanctions against a community, a city, a tribe and probably even all-Israel. We have not sought to deny Israelite awareness of this possibility, but to locate its place in Israelite thought. It did not, to use McCarthy's phrase, "ground the covenant."[1] Rather, it belonged to the general awareness, possessed by most of mankind, that nations and civilizations and cities 'die.' At times discussions of the moral causes of the death arise. In modern times the 'decline and fall of the Roman Empire' has been a topic of such a discussion. Evidently Sodom and Gomorrah had a similar place in Israel's consciousness. Its depravity was outrageous, so God destroyed it.[2]

Within the covenant, Yahweh does not hold the office of 'judge of the world,' but judge of Israel. This means that he attempts to judge his people distributively, punishing the guilty and preserving the righteous. If Gen. 18:23-33 has a bearing on covenantal thought, it is the expectation that Yahweh will err in the direction of allowing some to escape punishment rather than punishing the innocent.

The Historical Narratives. To conclude this section of the chapter, we shall note briefly the presence of collective divine sanctions in the books of Judges, 1 and 2 Samuel and 1 Kings.

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[1] McCarthy, op. cit., p. 163. [2] Cp. Is. 1:9, 10.

The original narratives of the book of Judges were not all-Israelite in scope and did not account for communal distress in terms of divine sanctions. Both ideas have been imposed upon the traditions by the Deuteronomistic and perhaps pre-Deuteronomistic frameworks of the book.[1]

At many junctures in the story of the rise of the monarchy, the reigns of Saul, David and Solomon, and the secession of the northern tribes we would expect the course of events to be viewed as collective judgment if such a thought-complex was in broad circulation. It is significant that the older narratives do not do so.

The loss of the ark (1 Sam. 4) is in part blamed upon the sins of the house of Eli, inasmuch as Hophni and Phinehas die in the event, but otherwise it is left as the result of the inexplicable fate of war.[2] Israel's suffering at the hands of the Philistines and others is accepted as a military fact which Yahweh acts to overcome by electing Saul to be a deliverer (1 Sam. 9:16f, 10:1, LXX).[3] The military disaster at Mt. Gilboa was understood to be Yahweh's final rejection of Saul (1 Sam. 28:16-19).[1] In c. 31, the event is portrayed simply as the tragedy of war.

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[1] We take the view that Judges has at least two 'frameworks,' one from ca. 840-800 B.C.: cp. Schmidt, op. cit., pp. 19f, the other the Deuteronomistic historian's.

[2] The loss of the ark and defeat by the Philistines is interpreted as divine punishment (of the northern tribes) in Ps. 78.

[3] 1 Sam. 7 understands Philistine oppression as punishment, and repentance brings divine deliverance.

The rise of David to power (1 Sam. 17 - 2 Sam. 5) is portrayed as the working out of Yahweh's rejection of Saul and choice of David. David's affair with Bathsheba and murder of her husband Uriah (2 Sam. 10-12) is resolved in a completely distributive manner. David's family troubles (2 Sam. 13-19), though they involved the entire people, are viewed completely from the side of the king, his family and retinue. Even the attempted rebellion of the north (2 Sam. 20) is treated as David's problem, not the people's.

When the Deuteronomistic historian draws a picture of the negative side of Solomon's reign (1 Kg. 11), he portrays Solomon's apostasy as a 'private' sin of the king (vv. 1-10) and the divine sanctions fall upon him alone (vv. 11-40). Apostasy by a public personage as important as a king would seem to involve grave risks to the entire people, yet Dtr. ignores these.[2]

The secession of the northern tribes had tremendous consequences for the history of the entire people of Yahweh. They were weakened and divided against themselves. This realistic political assessment of the schism, however, is not taken up by the Biblical historians. The narrative of the break is sympathetic to the north (1 Kg. 12:1-20). Solomon and Rehoboam have enslaved the people of Israel and they have every right to throw off the yoke. Yahweh seals the division by declaring:

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[1] Vv. 17f. appear to be secondary, but they do not contradict what we say.

[2] This is highly unusual in that Dtr. is tracing the fall of the people: cp. his interpretation of "Jeroboam's sin" (1 Kg. 12:28ff).

> This thing is from me. (12:24)

The collective guilt and punishment of the people makes its first appearance in the Deuteronomistic history of the monarchy in the Elijah cycle, 1 Kg. 17-19. This is an historically accurate dating of the motif, for it was a creation of prophecy.

Divine Sanctions in the History of Speech Forms

A form-critic must work on the premise that a given era is an inter-connected whole. There must exist a unity of conception across the spectrum of speech forms on such fundamental concepts as accountability and divine sanctions. Thus, it is incumbent upon us to confirm the principle of distributive accountability and divine sanctions for the period to which the classical covenant belonged in other speech forms.

The speech forms relevant to such an examination are limited to those which have divine sanctions as their subject or acts of God which could be interpreted as sanctions. We shall examine prophecy and lamentation.[1] We shall rely upon previous scholarly work for the identification and analysis of these speech forms. Our task will be to determine whether divine sanctions take effect in the individual or

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[1] We could treat wisdom, but it is so thoroughly distributive, 'individualistic,' that a discussion of it is superfluous.

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in the community, or in both, during the pre-monarchical and monarchical period.

Prophecy of Judgment. Prophecy can be defined as a 'word of Yahweh' announcing a future event.[1] By 'word of Yahweh' we mean a speech which purports to be spoken by Yahweh and is normally introduced by a 'messenger formula' indicating that the word was intended as an oral message carried by the prophet from Yahweh to the addressee.[2] The message announces a future event. The future event is not a neutral happening for the addressee, but carries either deliverance or success, or judgment.[3]

Only announcements of judgment fall under the category of divine sanctions. The announcement of salvation is not 'grounded,' is not given a reason: "When God announces salvation . . . then that is not based upon a positive, deserving deed of man, but upon God's ḥesed . ."[4] A sanction must have such a reason. The announcement of an event of judgment does meet the qualifications of a sanction, because it normally does have a reason, viz., the disobedient or evil act of the party to suffer punishment.[5] In the prophecy of judgment, then, we have the defining characteristics of divine sanction, viz., an act of God to punish a human evil.

C. Westermann's reconstruction of the history of prophetic speech is of central significance for our question. He has found that

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[1] Westermann, Basic Forms, pp. 93f.

[2] Ibid., p. 93, also pp. 98ff, 115ff.

[3] Ibid., pp. 94ff. [4] Ibid., p. 97. [5] Ibid.

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Israelite prophecy falls into two major phrases, prophecy addressed to individuals (JI) and prophecy addressed to the people of Israel (JP).[1] We can trace a line of prophets of judgment against individuals from the unknown prophet who condemned the house of Eli (1 Sam. 2), through Samuel (1 Sam. 13, 15, 28), Nathan (2 Sam. 12), Ahijah (1 Kg. 11, 14), the unknown prophet who appears in 1 Kg. 20:35-43, Elijah (1 Kg. 21, 2 Kg. 1), Micaiah ben Imlah (1 Kg. 22) to the unknown prophet of 2 Kg. 9:4ff.[2] It is this form of prophecy, addressed to individuals, which has parallels in the Mari texts.[3]

Pre-classical prophecy is a significant witness to our interpretation of the early covenant. It confirms, in a decisive manner, our two major contentions:

(1) The law was addressed to the people distributively, and

(2) It was sanctioned by God distributively.

The reason given for judgment, the prophetic indictment, is a violation of the divine law by the one addressed. "The JI is not concerned with general corruption or wickedness, or the like, but its presupposition is without exception a concrete individual event which has just occurred."[4] "It is a transgression that has been committed against the old law instituted by God on which the covenant between God and the people rested."[5] God acts as a judge who is "the representative of the national community."[1]

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[1] Ibid., pp. 137f.

[2] Based upon ibid., p. 137. Not all of these are historically authentic.

[3] Ibid., pp. 115-128. [4] Ibid., p. 132 [5] Ibid., p. 136.

God intervenes against violators of his law because the perpetrator of the act has not been brought before the bar of justice. In all of the earlier Biblical examples, the person sentenced by God is an official, usually a king, who was immune to judicial process. God alone could bring him to justice.[2] He was guarding his people from the violations of members by enforcing sanctions against violators. The JI announces the occurrence of a divine sanction against the addressee at some future time.[3]

During the period of classical prophecy, this pre-classical form continued to be employed occasionally, but it was eclipsed by the announcement of collective judgment. Both the indictment and sentence of classical prophecy shifted from individual violators of the law to the entire people. The logic of the prophetic indictment is instructive. It consists of two parts, a general, summary accusation against the entire people and specific instances of evils to substantiate the general accusation.[4] The specific instances would be, under normal circumstances, matters for positive law or divine sanctions protecting the legal order.[5] The prophets refer to them, however, for non-legal or super-legal purposes, to demonstrate the total corruption, compromise and inertia of the people. They saw such specific instances as evidence of a pervasive pattern and collective consistency.

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[1] Ibid., p. 135.

[2] This corroborates our thesis that public officials that violated their realm of responsibilities were threatened with distributive divine sanctions.

[3] Usually not divine intervention, but 'consequences': cp. Westermann, op. cit., pp. 149f. However, the punishment is caused by God the judge.

[4] Ibid., p. 170. [5] See Westermann's examples: ibid., pp. 174f.

Only with the collective indictment was an announcement of communal judgment, of divine sanctions directed to the collectivity, possible. The divine sanctions of classical prophecy simply cannot be understood in terms of a legal order or the classical covenant. A legal order assumes a fundamental health in the community. Law and sanctions protect and restore it. But when the entire social organism is corrupt, law has no power to restore it to health and in fact inevitably becomes a vehicle of injustice. The prophets speak to such a situation. The law, and thus the order established by covenant, was impotent. Hence, Hosea announces Yahweh's repudiation of his people (Hos. 1:8f). When divine judgment is announced for Israel, Yahweh has abandoned the covenantal order and his role within it. The prophets shatter the logic of the covenant on the basis of a 'radical' perception of the evil of the people, i.e., the perception that evil so penetrates the social organism that to put an end to it requires the destruction of the people itself.

The prophecy of judgment against the people arose simultaneously with the prophets Amos and Hosea between 760 and 750 B.C.[1] The intellectual presuppositions of this form may have arisen in the

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[1] Ibid., pp. 169f. We have added Hosea because it is possible that he began his ministry as early as Amos or at least arrived at the prophecy of judgment against the community independent of Amos.

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century prior to the appearance of these two men. 1 Kg. 17-19 are quite distinct from the historically accurate traditions of 1 Kg. 21, 2 Kg. 1:2-4 for their theological and typological accent and their portrait of collective guilt.[1] Both 1 Kg. 18 and 19 have indictments of the entire people. 1 Kg. 18 ends not in judgment, however, but in the conversion of the people back to Yahweh (18:39). 1 Kg. 19, on the other hand, does break through to something similar to a prophecy of judgment against the people. Elijah laments to Yahweh that the entire people are apostate, and Yahweh answers with an announcement of judgment against the nation.[2] Here for the first time the phrase 'break the covenant' occurs with the entire people as subject,[3] and here for the first time the existence of the people of Yahweh is threatened to the very core.[4]

Pre-classical prophecy of judgment arose after the covenant had achieved its classical form and co-existed with it.[5] As classical prophecy arose, the covenant tradition appears to have undergone a corresponding shift toward a collective interpretation of the law and divine sanctions. We conjecture that Josh. 24, the beginning of the collectivization of the law and sanctions among covenant texts, was composed at approximately the same time and place as 1 Kg. 17-19. Deuteronomy presupposes the full development of classical prophecy in which the entire spectrum of law, not just the first commandment, was brought into the collective indictment.

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[1] The two most helpful studies of these traditions are Alt, "Das Gottesurteil auf dem Karmel," *KS* II, pp. 135-149; G. Fohrer, *Elia* ("Abhandlungen zur Theologie des Alten und Neuen Testaments"; Zürich, 1957).

[2] The names of the agents of judgment, Jehu, Hazael, and Elisha dates the author during the period of the Aramean wars, *viz*., ca. 840-820. We do not propose to discuss the difficulties with this prophecy *ex eventu*.

[3] If one examines the occurrences of the phrases for 'breaking the covenant' (עזב ברית, הפר ברית, עבר ברית), he will find that 1 Kg. 19:10-14 and Hos. 8:1 are the oldest *datable* examples. (We would maintain that they are the oldest examples period.)

[4] Only a remnant will survive: note here the distributive idea.

[5] Assuming 1 Sam. 2 to be the beginning or very near it of this form of Isr. proph.

Prophetic Exhortations. There are several passages in the Psalms and similar literature in which Yahweh speaks in first person and which imply or explicitly mention divine sanctions. These texts create multiple difficulties for the interpreter, for we have little idea of their date or purpose. Inasmuch as the history of prophetic speech forms outlined by Westermann does not purport to account for all streams of prophecy,[1] we must consider these texts as candidates for pre-classical prophecy, probably with a cultic setting-in-life.[2]

Pss. 81 and 95 reproach the people of Israel for their evil. Neither actually announces coming judgment. Ps. 81 reproaches the people for their stubborn hearts (vv. 11f). The psalm goes on to express the possibility of victory over Israel's enemies and of communal prosperity (vv. 14-16). Israel's stubbornness is causing God to withhold these favors. The psalm must have arisen out of a period of military reverses and economic depression and seeks to account for these reverses in terms of the people's sins. Divine sanctions here are a diminution of the divine blessings, not positive judgment. The psalm could belong to any of several periods prior to 721 B.C. Given its northern provenance (vv. 1-5) and its specific concern over apostasy and idolatry (v. 9), one might think specifically of the era of the Aramean wars in which the Elijah traditions and Josh. 24 arose.[1]

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[1] Cp. Westermann, Basic Forms, p. 169, text and n. 2.

[2] Since they are preserved as psalms, the hypothesis that the texts had a cultic setting presents itself as obvious.

Ps. 95:7c-11 are an admonition built around an allusion to a rebellion in the wilderness.[2] Ps. 95:11 refers to Yahweh's condemnation of the wilderness generation to 'not entering my rest.' The admonition appeals to the contemporary generation not to repeat the rebellion of their forefathers (vv. 7c, 8-10) and by implication receive a similar punishment. Since the passage depends at least in part on Num. 13f, which we have already discussed, it can be dated after that passage.[3] The fact that it is appended to a psalm of praise could indicate that it is quite late, from a time when forms had broken down.

Although Dt. 32 and Ps. 78 are not prophecy, they are related to exhortation and prophecy. Both speak of all-Israelite sin and judgment in the past. The two have many similarities. Both begin with a call to attention which speaks in the language of wisdom.[1] Dt. 32 follows the introduction (vv. 1-3) with a justification of God (vv. 3-4) and a reproach of the people (vv. 5-6). Ps. 78:5-7 describe the purpose of divine law and v. 8 indicts 'their fathers.' There follows in both passages an extensive narration of Israel's history, a history of God's grace, Israel's sin and punishment (Dt. 32:10-30, Ps. 78:9-64). The recitation ends in each case with grace (Dt. 32:(31-33?), 34-43, Ps. 78:65-72).

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[1] Of course, if the psalm is older than 840 B.C., it would establish the existence of cultic reproach and warning against the community during the pre-classical period.

[2] Cp. Ps. 106:36f, Dt. 6:16.

[3] Coats, op. cit., p. 68f, would date Ps. 95:8ff quite late.

It has been maintained that both of these passages are quite old.[2] But literarily and form-critically, an early date for either is highly improbable, though some constituent units may be.[3] Literarily, they are massive, baroque compositions utterly uncharacteristic of early literature. Form-critically, they appear to be dependent upon classical prophecy: They record collective indictments and judgment after the event (Dt. 32:19ff, 23-27, 30, Ps. 78:9, 59-64). Salvation is either in prospect (Dt. 32:34ff) or has already been established in Zion (Ps. 78:65ff). We conjecture that Dt. 32 arose out of the fall of the northern kingdom and that Ps. 78 reflects the same event.

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[1] Cp. the introductory statements of Job's friends, Job 4:2-6, 8:2-10, etc. The significance of 'wisdom' here is unknown to me. It could be quite ancient: cp. Gen. 49:6a.

[2] Cp. Eissfeldt, Das Lied Moses ("Berichte über de Verhandlungen der sächsischen Akademie der Wissenschaften zu Leipzig", 104/5; Berlin, 1958) and Introduction, pp. 226f, for Dt. 32; also Albright, "Some Remarks on the Song of Moses," VT 9 (1959), pp. 339-346.

[3] For example, Dt. 32:8f, 10-14 could be quite old. Given the complex way tradition grew in Israel, there is no reason to date a passage on its oldest materials.

In summary, we do not believe that these prophetic exhortations demonstrate that the idea of collective sanctions for collective evil was in circulation prior to classical prophecy. Hortatory appeals such as Ps. 81 might derive from the period prior to the appearance of Amos and Hosea, but probably not prior to the Aramean wars (840ff). Full collective indictments and sentences, such as those in Dt. 32 and Ps. 78, probably are dependent upon classical prophecy. In the prophetic tradition we have an historically visible and tracable appearance of the collective indictment and sentence.[1] Prior to this time, the visible prophetic tradition addressed individuals. It is questionable that a collective reproach and warning co-existed side by side with the JI without influencing it. Moreover, it is sounder scholarly procedure to work from the known, *viz*., the tracable history of prophetic speech, to the unknown than to conjecture about the unknown and interpret the known in that light.

Lamentation. This speech form is relevant to our concern because Biblical laments were responses to radical reversals, suffering and loss attributed to God. The question is whether such 'acts of God' have the people as the party who suffers and whether such acts were understood as sanctions. The question of whether the people were subjects of events over which they lamented can be answered with a simple yes. Alongside of the individual lament, which was spoken by an individual supplicant for his own personal suffering, we have the

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[1] Westermann, *Basic Forms*, pp. 169ff.

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communal lament in which the speaker is we, Israel.[1] This latter category was probably more important in the pre-exilic period than the number of communal laments preserved in the Psalter would suggest.[2]

The real question which concerns us, then, is whether the communal lament views the catastrophe which has struck the people and over which they lament as a sanction, as divine punishment for the people's sin. Our contention is that the accusation against God, or second person lament, which was the center of gravity of the Israelite communal lament from the earliest times down through the Psalter form,[3] is not in harmony with the view that 'acts of God' are sanctions.

C. Westermann has reconstructed the history of the communal lament in his study, "Struktur und Geschichte der Klage im A.T."[4] We shall follow his reconstruction. The earliest communal lament was an interrogative or declarative accusation against God:[5]

> Why, Yahweh, God of Israel, has it come to pass in Israel
> that today a tribe is lacking in Israel? (Jud. 21:3)

There is no supplication, only lament, and the lament is entirely second person lament.[6] First person lament is hidden in the why-question addressed to God and third person lament ('the enemy') is entirely absent. God alone is to blame for the situation. This is amazing in view of the event, the punishment of the tribe of Benjamin, in which it would be simple to locate guilt. Moses' lament during the struggle against Pharaoh is quite similar:

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[1] Westermann, "Struktur und Geschichte der Klage," Forschung, p. 267f.

[2] Ibid., pp. 271. [3] Ibid., pp. 276, 292ff, and elsewhere.

[4] Forschung, pp. 266-305. [5] For what follows, ibid., pp. 292-294.

[6] More dismay than sharp accusation.

> Yahweh, why have you done evil to this people? Why did you ever send me? For since I came to Pharaoh to speak in your name, he has done evil to this people! And you have not delivered your people at all! (Ex. 5:22f (J))

There is no hint whatsoever of sanctions. The suffering is due to Yahweh's failure.[1]

The accusation against God continues to be the center of gravity in the classical lament. Again and again the people ask God why he has acted as he has or accuse him of malice.[2] They have experienced an incomprehensible blow from his hand and seek to find out its reason or vent their anger. Theologically, God's power is assumed but his goodness is less certain.[3]

To be able to raise accusations against God, there must be no ready-made answers, or the latter must be unconvincing. Specifically, the belief that acts of God are sanctions, are punishment for sin, must not be self-evident to the person or group lamenting. This does not mean that the explanation of an act of God as a sanction could not be one among several possibilities. It simply could not be the self-evident and/or sufficient explanation. One could not assume the people's sinfulness as the cause of every disaster, but might assume that sinfulness would lead to disaster (= sanctions).

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[1] Yahweh's answer: Just wait and see! Note that both first and third person lament are enclosed in the second person lament here.

[2] Ibid., pp. 275f.

[3] The catastrophe is blamed on God's turning away, which means his power.

We have good reason to doubt, however, that communal sin and collective guilt was a possible explanation for most catastrophes. The communal laments do not normally contain references to sin.[1] When it is mentioned, it is curiously irrelevant to the situation. Ps. 44: 18-23 rejects the possibility of the blow coming as divine sanctions, and asserts that it is rather God who is faithless.[2] Ps. 79:8 requests forgiveness for the 'iniquities of the ancestors,' but these 'iniquities' by no means explain God's wrath. The psalmist is simply asking that all the impediments to the re-establishment of communion, no matter how irrelevant, be removed.

There is an exception which may be of some import: The communal laments over drought in Jer. 14 have a confession of sin in place of the lament against the enemies (Jer. 14:7, 20).[3] In neither case, however, is Israel's admitted sin sufficient to silence the most bitter accusation against God:

> Why are you like a stranger in the land,
> like a wayfarer who turns aside to tarry for a night?
> Why are you like a confused man,
> like a mighty man who cannot save? (vv. 8b, 9a)

Evidently the people of Israel assumed that God is committed to acting in Israel's behalf even if it is sinful. As Ps. 85, another lament over drought (so v. 13), says:

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[1] Cp. Westermann, Praise of God, pp. 52ff.

[2] This psalm is aware of the explanation, but rejects it. Linguistically, the psalm stands in proximity to Deuteronomic literature.

[3] Westermann, "Structur und Geschichte der Klage," Forschung, p. 273.

> You were favorable to your land, you turned the fortune of Jacob, You bore the iniquity of your people, you covered all their sin, You took away all your fury, you turned from your anger. (vv. 2-4)

This is a portrait of what could be expected of God, the way he had acted in the past. It is possible that droughts, and perhaps similar short-lived, natural disasters (plagues, blights, locusts, etc.), were blamed regularly on the guilt of the people or their king and by going through the appropriate expiation or purgation, they would be lifted.[1]

When the view that all acts of God were divine sanctions did become self-evident, did become dogma, the accusation against God was effectively silenced.[2] Westermann has shown that praise of the righteousness of God and confession of sin replaced the second person lament in late Biblical and post-Biblical psalms.[3] God's power and righteousness were certain, so suffering must be due to human sin.[4] This development can be attributed to the confluence of prophecy, Deuteronomic thought and experience of the exile. Westermann attributes the decisive influence to the Deuteronomic school:

> In der Spätzeit kommt die Anklage Gottes fast oder ganz zum Schweigen. Wie und wodurch sie zum Schweigen kommt, lässt sich genau beobachten. Die Theologie der deuteronomischen Schule, die die Geschichte der Wustenwanderung (vor allem Dtn. 9:7ff) und erst recht des anässigen Israel zu einer Geschichte

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[1] Cp. also Hos. 4:1-3, Am. 7:1ff, and so forth.

[2] Some Biblical examples: Ps. 106, Neh. 9.

[3] Westermann, Forschung, pp. 296ff.

[4] The individual lament underwent a parallel development at about the same time. Job's friends represent the view that all suffering must be due to human sin. Job as a whole is a protest against this dogma in the name of the ancient lament.

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> des Ungehorsams stempelte und die politische Vernichtung als ein gerechtes Gericht Gottes erweis, begann im Denken zu prägen, dem die Anklage Gottes schlechthin verwehrt war. Die Schuld der Väter wurde so ernst und bewusst übernommen, dass jetzt an die Stelle der Anklage in den Klagen über das Volksschicksal genau das Gegenteil trat: die Rechtfertigung Gottes oder geradezu das Lob des gerechten Gottes.[1]

To summarize, during the early and classical periods of the lament, Israel felt free to accuse God of unfaithfulness or malice when it suffered the 'slings and arrows of outrageous fortune.' That God was the cause of the misfortune was not doubted, but his motive was inexplicable. The fact that such blows were not self-evident divine *sanctions* is sufficient to disqualify the suzerain-vassal model. On the basis of his past deeds (e.g., Ps. 80:9-12) and the covenant between them (e.g., Ps. 74:20a), Israel could expect God's favor. Even when the people confess their sin (Jer. 14, cp. Ps. 85), God's behavior is inexplicable, for his forgiveness is expected. If we take into account the odd-making factor that Yahweh is a God and as God causes the events of history, the communal lament coheres with the sovereign-subject model. As their sovereign, Yahweh should protect and defend his people. When he acts in a contrary manner, he is subject to accusations of malicious and unfaithful behavior. When all disasters are explained as due to Israel's sin, the suzerain-vassal model has replaced the sovereign-subject one.

Summary and Conclusions. The history of prophecy and lamentation follow a similar pattern. Pre-classical prophecy directed divine sanctions against individual violators of the law, corresponding to the distributive accountability in the law and the descriptions of divine sanctions in covenant texts. Yahweh protects and restores his community from the violation of its members by enforcing sanctions against violators. Between ca. 850 and 750 B.C., the consciousness of collective violation of the covenant and law and corresponding collective sentencing began to emerge among prophetic circles and finally forced its way into a prophecy of judgment against the entire people. The prophets observed specific acts of legal violation as indicative of a pervasive pattern permeating the entire life of the people and their institutions.

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[1] Westermann, *Forschung*, p. 271.

The lament also passed through a history. From the very beginning, there was lamentation over communal disaster and suffering. God was blamed for the disaster, but his action was not seen as punishment. His blow was incomprehensible, perhaps malevolent. If the community was guilty of some sins, this fact still was not a sufficient explanation of God's wrath. The prophetic message, the Deuteronomic school and the exile silenced the accusation of God in favor of a confession of God's righteousness and man's sinfulness.

According to our design of covenant models, the earlier period of prophecy and lamentation parallel a covenant modeled upon the sovereign-subject relationship. In prophecy God imposed sanctions on violators of the law distributively. In communal lament disasters were not accounted for by reference to communal sin. Classical prophecy initiated a process which led to the Deuteronomic re-interpretation of the covenant as a suzerain-vassal relationship and the silencing of the accusation against God in the communal lament.

Summary and Conclusions

We set out in this chapter to determine whether the narrative, psalmnic and prophetic texts from the pre-monarchical and monarchical periods which report or announce divine sanctions envisaged distributive or collective guilt and punishment. We found that in all categories God acted according to the principle of distributive justice in texts from the period prior to classical prophecy and that texts from the period of classical prophecy (or afterward) often envisaged collective guilt and sanctions.

We found no evidence in texts composed under the classical covenant that the people were held accountable for offenses of individuals. We did find that the people might suffer as the possessions of a king for his offenses and that God might strike a blow to call attention to an unpunished crime. Moreover, the people would 'purge' the evil from its midst by punishing an offender, but this purgation was not so much expiation for collective guilt as vindication of the law and community. The book of Deuteronomy, and a narrative influenced by it (Josh. 7), did understand the community to incur guilt for the offense of an individual and the enforcement of law did have the purpose of expiating it and of protecting the people from further guilt.

We found that even mass offenses were resolved distributively in the texts composed under the classical covenant. The rebellions during the wilderness sojourn were resolved distributively in the older layer of each narrative. Each was subsequently interpreted collectively in

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later layers. The passage which is normally considered the locus classicus of the concept of collective guilt was found to be conceived in distributive terms and concerned about the protection of the righteous from unrighteous punishment.

Finally, we found that the history of prophetic speech and lamentation parallels that of the covenant. In early prophecy an individual was indicted and sentenced. Amos and Hosea introduced the collective indictment and sentence into prophetic speech. The early and classical communal lament did not interpret the sudden blows of God as divine sanctions, but as incomprehensible behavior for which God could be accused of faithlessness and maliciousness. Only under the impact of classical prophecy and the Deuteronomic school did it become self-evident that all acts of God were punishment.

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CHAPTER VIII

REVIEW AND INFERENCE

In the introductory chapter of this dissertation, we described and contrasted the two dominant schools in the history of covenant studies, the one associated with J. Wellhausen, the other with G. Mendenhall and K. Baltzer. Wellhausen's thought was dominated by an evolutionary or developmental model of history. The relationship between Israel and its God, according to him and his followers, passed through several models of 'covenant,' going from a natural relationship to a contractual one. Mendenhall, Baltzer and Lohfink argue that the covenant was modeled upon a suzerain-vassal treaty from the beginning of its history until the exile.

In the same chapter we noted the dissatisfaction of several scholars with the suzerain-vassal treaty as the form of the older covenant traditions. We proposed an alternative model, the relationship of a sovereign to his subjects. Most of our argument in intervening chapters has been devoted to the demonstration of the sovereign-subject model for the classical and Priestly versions of the covenant and the demonstration of the suzerain-vassal model for Josh. 24 and the book of Deuteronomy. Now we must settle our accounts with Mendenhall *et al*. and with Wellhausen.

The chapter is divided into two parts. The first is a comparison of the sovereign-subject with the suzerain-vassal covenant. We shall tabulate the results of our investigation and reflect on the historical and theological significance of these results. The second is a reconstruction of the course of history leading from the sovereign-subject covenant to the suzerain-vassal one. We shall need to identify the decisive influences that brought the latter into being. This will necessitate a debate with Wellhausen over the appropriate model for Israel's history.

A Comparison of Covenant Models

The power of sovereignty, as defined at the outset of our study, is the power to command and to enforce one's command. The authority to command rests upon majesty. Subjects are bound to obey their sovereign. When the members of a society recognize a common sovereign, they become a legal community. The sovereign enacts law to regulate the relations of the members of the community and to restore peace and order after violations have occurred.

A suzerainty-vassalhood relationship is an alliance between two sovereigns in which one party has dominant power over the other and determines its international relations and its internal affairs when they have international consequences, e.g., extradition. The suzerain's authority to exact duties of vassals depends primarily on his superior military force and secondarily on his generosity and customary rights. However, the treaty is made binding by the oath of the vassal to comply with it. The divine witnesses will hold the vassal to his word and bless or curse him accordingly.

The Hebrew word ברית could, we averred, refer to either the relation of a sovereign to his subjects or a suzerain to a vassal, as well as to a number of other types of relationship. We found evidence that Israel did possess a concept of sovereignty which approximates our design and suggested that Yahweh possessed the requisites of sovereignty more adequately than the human king. It was our task in this study to determine whether the relationship between Yahweh and Israel denoted by the word ברית corresponded to the relationship of a sovereign to his subjects or a suzerain to his vassal.

We found warrant in some of the covenant texts for interpreting that relationship according to a sovereign-subject model. Several covenantal texts used titles for Israel appropriate to subjects. The clearest instances of these were 'holy nation//kingdom of priests' in Ex. 19:6a. Although no royal title was bestowed upon Yahweh in the covenant texts, he assumed the power to command. He claimed sole loyalty to him, a fact which comes to expression in the title 'God of Israel' (Ex. 24:10, cp. Josh. 24:18b).

In two covenant texts, Josh. 24 and Dt. 6-11, features of the suzerain-vassal treaty made an appearance. Neither text creates a new set of titles for God or Israel. However, in both we find formal promises to remain loyal and obedient sanctioned by the threat of divine punishment for non-compliance. In both, too, the people owe duties as a corporate body to their God. Hence, we set these two texts apart from the other covenant texts as interpretations of the covenant according to a suzerain-vassal model.

Theologically, the sovereign-subject model of covenant was able to embody the idea that God was the source and ground of Israelite

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community much more adequately than the suzerain-vassal model. The people of Israel came into being by recognizing a common locus of sovereignty in their God, Yahweh. Loyalty to Yahweh was the fundamental force binding these disparate groups together and forging, over centuries, a national entity with a common law and institutional structure. Yahweh's relationship to Israel was even more fundamental than the concept of sovereignty suggests, for he was the locus of Israel's unity and the source of its legal order.

In the sovereign-subject covenant there was no interval between the indicative of election and the imperative of law. Israel was not first chosen and then commanded to behave in a certain way. Election was to subjecthood. Israel was Yahweh's special possession because it was his holy nation and his kingdom of priests, and the people formed his holy nation because they have him as their sovereign and hence were obligated to obey him. Nor was there an interval between Yahweh's deity and sovereignty: Yahweh assumed the status of God of Israel by promulgating law.

The suzerain-vassal covenant embodied the divine independence from Israel. Yahweh had entered into relationship with Israel freely and was equally free to abandon them if they proved unfaithful and disobedient. Although Israel owed its existence to Yahweh, it was a corporate body over against him. A suzerain imposes his will upon a complete, self-sufficient social, political and legal order.[1] Israel, according to this model of covenant, was such an independent corporate entity. In theological language, the suzerain-vassal model results in supernaturalism. By this we mean the view that God and 'nature,' or a human community in this case, are distinct entities over against each other.

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[1] A suzerain-vassal treaty did not, theoretically speaking, confer the power to command on the suzerain. Rather, the provisions of the treaty were agreed upon as a part of the relationship. The vassal was duty-bound to obey them because he had agreed to under oath. Moreover,

The supernaturalistic covenant disjoins the indicative and imperative of the covenant. Yahweh has created the people and then imposed duties upon it by which it may preserve and restore itself. Israel was to respond in gratitude to Yahweh for what he had done. In its response it will determine whether it will remain or be destroyed. Israel has received its being from Yahweh and must act to preserve it.

Establishment of Divine Authority. The power to command requires a basis. The sovereign must 'convince' his subjects that they should obey him. Likewise a suzerain must convince his vassal to comply with the stipulations of the treaty between them. The sovereign must demonstrate his majesty. The primary components of majesty are power, both to deliver the people from its enemies and to enforce the sovereign's will, and moral legitimacy. The suzerain bases his authority on military supremacy, but he too seeks to support this morally and religiously.

Yahweh establishes his sovereignty theophanically. Theophany is

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beyond the provisions he owed no obedience. Not even the suzerain-vassal model of the covenant between Yahweh and Israel was so structured. The law receives its legitimacy from what Yahweh had done for Israel and what he threatened to do if it disobeyed.

at the center of all the Sinaitic accounts, and also P's covenant-making (Gen. 17). God makes himself manifest to the people of Israel in order to establish his claim to their obedience. His awe-inspiring appearance demonstrates his reality and power. In one strand (Ex. 24:9-11), his appearance before representatives of the people creates them as a sacred community around him. The same source (E) also has Moses explain the public theophany as a demonstration of Yahweh's power to enforce his will (Ex. 20:20).

Divine *favor* in these texts has the character of 'theophany.'[1] When Yahweh shows favor to Moses, he lets Moses see him (Ex. 33:17ff). His favor toward Israel is his presence among the people (Ex. 33:12ff) manifested in marvels and wonders (Ex. 34:10). When God allows the elders to observe him without harm coming to them (Ex. 24:10f), it is implied that he has shown them special favor, though the term is not used. He has granted them an 'audience.' In his role as 'judge,' Yahweh shows his favor by hearing the request of the helpless (Ex. 22:26, cp. 34:6). In these instances, it is the divine presence and accessibility which constitute his favor.

God does not establish his sovereignty by 'doing favors' which obligate the recipient to him. There is no interval between 'favor' and response. C. Westermann has maintained that in ancient Israel *praise* rather than *thanksgiving* was the mode of response to God's deliverances and being.[2] Praise is spontaneous, self-evident, and

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[1] חנן, חן and חנון in Hebrew.

[2] *Praise of God*, pp. 25-30.

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centered around the party praised, whereas thanksgiving is more reflective, obligatory and self-conscious.[1] Just as praise is the appropriate response to a deed of God, recognition of his deity and sovereignty is a correlate of his theophany.[2] Theophany does not make the recipient feel obligated, but calls forth a spontaneous response.

Several of the accounts of covenant-making not only see Yahweh's demonstration of his power and reality in the pure presence of the Sinaitic encounter, but on the plane of past and future history. In one account, the deeds of Yahweh in Israel's recent past (Ex. 19:4, probably originally Josh. 24:2-13*) demonstrate his power in Israel's behalf and his plan for it. He will, it implies, continue to act in this way if the people bind themselves to him (Ex. 19:5f). At the beginning of the decalog, Yahweh identifies himself as the God of the exodus and his people as liberated slaves. In yet another, Yahweh promises to be in Israel's midst (Ex. 33:14) and to demonstrate his presence and power in great wonders and marvels (34:10).

The contrast between Ex. 19:3-8 and Ex. 33:12-34:28* is significant enough to deserve further comment. The framework of the Covenant Code (Ex. 19:4) finds divine revelation in the past, while the Yahwist (Ex. 34:10) looks forward to it in the future. It is not accidental that the people are called to decide whether they will enter into

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[1] Ibid.

[2] The 'covenant' is closely related to descriptive praise at several points, though ultimately they are quite different. The acclamation of Yahweh as Israel's God is a praise sentence in type, but it goes beyond praise toward exercitive and commissive language.

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covenant with Yahweh in Ex. 19:3-8, while they are allowed no decision in Ex. 33-34. 'Israel' has a certain freedom over against the past. The people can decide whether they will seize the tendency of their history as their future. That is, they can decide for or against continuing with the God who claims this past to be his doing. This freedom is relative, for the possibilities projected by this history are too compelling to spurn. Nevertheless, there is no historical necessity involved.

On the other hand, when God decides to base his sovereignty upon future demonstrations of his power and presence, the people have no opportunity to decide. We understand the Yahwist to be speaking theologically about the future, not simply building up the figure of David. That is, when he speaks of the future, he means the future which confronts every present. Yahweh does marvels which become 'past' but one is not allowed to look at these and decide for or against his power and majesty. The demonstration resides dialectically in the actual marvels performed and the impossibility of a final and conclusive one. Yahweh becomes sovereign solely on his own initiative. The people must again and again 'passively' await his action: They become subjects by waiting expectantly.

Those texts in which the suzerain-vassal model is operative do not have Yahweh establish his authority theophanically. Israel's obligation to Yahweh for what he has done comes to the fore. In Josh. 24, the people respond to the recitation of Yahweh's deeds and call to decision with a protest that they would never forsake their God. The Deuteronomic paranesis stresses Yahweh's irrational, uncalculated love for Israel. The people are made to feel all the more the moral obligation to remain true to him and to love him in return. It is God's overwhelming goodness in history rather than manifest power which establishes his claim.

History in the suzerain-vassal covenant texts is viewed differently from Ex. 19:4ff. The past binds the present and the future will be either a continuation or loss of the structure deriving from the past. In Ex. 19:4ff, the tendency of the past projects forward a culmination in the present and future, whereas in Josh. 24 and Dt. 6-11 the historical process has reached its goal already. Yahweh has established his sovereignty in what he has done. Even in Dt. 6-11, where the conquest has not taken place, the future holds only an external completion.

The Validation of the Covenant. When a covenant is made, it is put into force by declarations and rites. Such acts have what we have been calling *exercitive force*. That is, the declarations and rites have the force of inaugurating the situation described or depicted. The acts recounted in the covenant texts record the *creation* of the formal relationship between Yahweh and Israel.

We have termed the inauguration of the sovereign-subject covenant an act of 'incorporating' as a legal community with Yahweh as sovereign. The mode of incorporation runs the gamut from divine fiat to human assent. In J and P, the covenant relationship is simply proclaimed to be in effect. The recipient is completely passive. The legal order is imposed upon the people. The analogy appropriate to these versions is autocratic sovereignty. Theophany has established Yahweh's authority to be self-evident. On the other hand, his demonstration lies in the future. God makes his claims on the people of Israel on the basis of the future which he projects for them.

E's account of covenant-making contains the seeds of both the unilateral and bilateral modes of validating. Representatives of the people participate in a common meal in the visual presence of God. The element of official assent is absent, but there is participation in the validating act. The law is simply imposed upon the people, but the people are allowed an audience with the law-giver. Also noteworthy in E's account is the popular selection of Moses to negotiate with God in the people's behalf (Ex. 20:19).

In the framework to the Covenant Code, and in Dt. 26:16-19 and probably in the tradition behind Josh. 24, the people have an opportunity to assent to the covenant arrangement. In Ex. 19:3-8, Yahweh offers Israel the vocation of being his subjects. In the reconstructed older version of Josh. 24, he offers himself as Israel's God. In both the people accept the offer by subjecting themselves to his will. Josh. 24 and Dt. 26:17 accompany the pledge to obey with an acclamation of Yahweh as Israel's God. These three texts represent the most 'democratic' view of divine sovereignty. In Ex. 19:3-8 and Josh. 24, Yahweh proclaims his past deeds to demonstrate his qualifications. He has demonstrated his power and plan for Israel in his acts. These events had a certain tendency and opened up a possible future. But Israel did not, according to these accounts, become a people by historical necessity. They decided to become a people on the basis of this history and the possibilities it projected.

These texts share the view that covenant-making is a beginning. The relationship between Yahweh and Israel is not timeless, but comes into being at a particular moment in time by specific acts which put it in force. The fact that the making of the covenant began at Sinai, a past event for later Israel, should not be overemphasized, for it is not unlikely that there was a periodic 'renewal' of the covenant. The texts themselves, in any case, project a strong sense of beginning in the present.

Among the texts there are dramatically different intuitions of the origins of Israelite community. The Elohist account stresses the sacral community actualized in the act of covenant-making itself. The Yahwist understands Israel to come into being solely by the divine initiative and to be maintained solely by his theophanic presence. It is solely the divine presence in Israel which sets it apart from other nations. There is a tendency in J in the direction of the unconditional covenant of P. In the framework of the Covenant Code, the older version of Josh. 24, and Dt. 26:16-19, the covenant is sealed bilaterally. The community comes into being by decision. In Ex. 19:5f and Dt. 26:18f, the factor that sets Israel apart from the nations is its vocation as Yahweh's people.

The covenant texts which allow the people the opportunity to assent have often been interpreted to be conditional. The conditions of the offer of election in Ex. 19:5a have been read as a timeless 'if...' qualifying the divine grace. We consider the discovery that the conditions could be understood to mean,

If you will recognize my will as law,

to be a major breakthrough on the way to the thesis of this dissertation. Likewise, the realization that the pledge to obey the will of Yahweh was an exercitive declaration, a submission to his sovereignty, was a critical discovery for us. These two exegetical solutions, which are certain to be disputed, open up vistas for the interpretation of the covenant between Yahweh and Israel. They reveal a covenant tradition in which Yahweh assumes sovereignty by explicit consent of his people. This tradition links up with the northern monarchical tradition and the 'democratic' origins of Mesopotamian monarchy.

It is not accidental that the suzerain-vassal model of covenant emerged out of the assent tradition. The extant version of Josh. 24 is, according to our analysis, a revision of a covenant account in which Yahweh was acclaimed God and sovereign over Israel. Both the paranetic and legal parts of Deuteronomy are closely related to the Covenant Code and its narrative framework. The conditional interpretation of covenant grew out of traditions in which the people take on the responsibility of being Yahweh's people freely. On the other hand, we must stress that the pledge to obey Yahweh originally was primarily exercitive and its commissive force was subordinate. That is, it meant:

> Yahweh's will is binding upon us (i.e., law).

This pledge initiated (exercitive) an ongoing (commissive) sovereign-subject relationship.

The covenant texts modeled upon the suzerain-vassal treaty do not record declarations and rites with exercitive force. The covenant relationship was initiated by Yahweh in the past, and the present is a time for rededication to an arrangement already in force. In both Josh. 24 and Deuteronomy the people make promises. These promises do not put the relationship into effect, but declare the intention to comply with it. The force of the language of the one speaking for God is motivational. It is intended to persuade the people to a specific course of action, *viz.*, to serve and obey Yahweh. The decision which Israel must make today is a moral or 'inner' one, *viz.*, whether they will earnestly obey the law or not. What they decide is, on the other hand, a question of fact, *viz.*, whether they do in fact obey the law or not. It is not what they say that matters, but what they do.

The absence of a new beginning in Josh. 24 and Dt. 6-28 reflects the historical reality of the periods from which they derive. Israel had a long ago ceased to be a community in formation. It had a clear consciousness of its collective identity. The law, cultus and other institutions of its national life had been established for centuries. Yahweh had been worshipped in Israel since it was a child. It would have been impossible to understand the act of covenant-making as initiating communal existence. The challenge of the time, according to these texts, was the renewal of the spirit and structures of the community which was a given from past history.

Law and Stipulations. In all of the accounts of covenant-making, the promulgation of law is a part of the validation of the covenant. Yahweh assumes the power of sovereign or suzerain by promulgating law for his subjects or stipulations for his vassal. This occurs at the outset of the relationship, as a part of the covenant-making event. It

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too may have exercitive force, the force of subjecting Israel to the divine will.

Each account of covenant-making has a different view of the initiating legal enactment. The accounts differ not only on what laws were promulgated, but on what kind of law established community. Each of the older Sinaitic accounts, for example, have fundamentally different approaches. The Yahwist has Yahweh issue only the first and second commandments. The covenant law, thus, only protected Yahweh's status in the community. This was deemed sufficient to create and maintain community. The Covenant Code stands at the opposite end of the spectrum. It contains a sampling of the entire legal tradition. Every type of law and almost every legal subject is covered. This tradition understood Yahweh to establish the entire legal order as a part of the inauguration of community. The Elohist attempts to summarize the entire sphere of legal relations in a series of prohibitions and commandments governing the fundamental aggression and duty in each type of relation. E, thus, has God posit the 'pillars' of the legal order at the outset of his reign. This law would have to be supplemented by remedial and technical law in the actual administration of justice.

The Holiness Code resembles the Covenant Code in theory, in that it has a broad sampling of law governing almost every legal relation of society. However, unlike the Cov. Code, it avoids technical remedial law. Aside from its cultic and cognate law, it deals mainly with serious crimes and moral and religious offenses. The Priestly source, apart from H, contains law concerned almost entirely with the cultus and its personnel, festivals and rites. Secular subjects, with one or two exceptions (e.g., Num. 27), are treated only when the cultus and priesthood play some part in the proceeding.

In spite of their vast differences, these legal traditions all address the law to the people distributively. The covenantal law was the law of a sovereign for his subjects. It was the law of a legal community, i.e., a community whose members recognize a common law and arbiter of disputes. When Yahweh promulgated this law, he was acting for the sake of his people's welfare. The purpose of the law was to protect the social order as a whole from violations of its members and concurrently each member from the aggressions of others. When violations occurred, the law provided for sanctions, compensation or composition to restore the social order and peace and vindicate the law. To administer the law, Yahweh assumed the role of 'supreme judge' at the head of a judicial system and he himself guarded the court process from corruption and injustice. The courts were instrumentalities of the divine administration and enforcement of the law.

The aims of protection and restoration through law constitute the law's theological significance as well as practical objective. The law is 'grace,' divine aid for the recipient, Israel. The law is divine law, and its action is his action. When Yahweh imposed his law on Israel, he was protecting and restoring his people. As sovereign in Israel, Yahweh's chief power was to promulgate and enforce his will. Law does not create community, but facilitates it. This is the relationship of covenant to law: The community is created by covenant, and law provides for order, peace and justice within this community. However, law is a *sine qua non* of community and hence sovereignty is usually defined in terms of law-making power. Yahweh's sovereignty in Israel is put into effect by the imposition of law.

To be Israel's sovereign, Yahweh needed corporate recognition. On the other hand, the people came into being as a legal community only by recognizing a common sovereign. A legal community cannot exist with several *loci* of sovereignty. Since Yahweh was a deity, no other deity could be recognized in Israel without destroying the structure and basis of community. This is the covenantal significance of the first and second commandments. These prohibitions protect Yahweh's sovereignty in Israel. They have a collective as well as distributive addressee, for both official corporate and 'private' recognition of other deities would threaten community. Since the possibility of an official corporate recognition of another deity would have become improbable once the exclusiveness of Yahweh's claim on Israel was established, these prohibitions too would have been directed primarily against violations of members. The oldest narratives of defection on a mass scale (Ex. 32, Num. 35) are sanctioned distributively.

Some of the cultic law was formulated as collective duty. The ? society as a society owed duties to deity in order to fulfill its religious end. Yahweh plays two distinct roles in these laws, the lawgiver who maintains the *cultus civilis* and the deity to whom these duties are owed. By fusing the roles of sovereign and God, the cultus devoted to his worship becomes an institution of the covenantal order. In their cultus the people recognize and celebrate their divine sovereign. The duties were sanctioned distributively.

The pledge to serve Yahweh in Josh. 24 and a sizable portion of

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Deuteronomic law was imposed upon the people as a whole. That is, in these interpretations of the covenant the law is addressed to the people collectively. Within Deuteronomy's apodictic law, the community was required to restrain its members from practicing religio-magical arts, child sacrifice and other Canaanite 'abominations,' and cultic prostituion. Within its remedial law, the people, through their courts, received the duty of enforcing sanctions against serious violators of the law. They were to 'purge evil from their midst' in order to expiate the guilt caused by the violation. The court fulfills these collective duties of enforcement of sanctions owed Yahweh. The fate of the community depends upon its pursuit of justice and strict adherence to the law.

The other institutions of the people also functioned as instrumentalities of their collective action. The militia, a new-comer to covenant law, was the people at war. Its posture, policies and practices involved collective duties. Israel's fate depends upon its compliance with the divine will. As laymen in the cultus the people are required to recognize Yahweh's chosen place of worship and to support his clergy. As royal subjects they assume the duty of selecting a qualified monarch.

Deuteronomy does contain much law which is addressed to Israel distributively. The law governing primary rights and duties and cultic duties fall into this category. Some apodictic and remedial law does too. Each Israelite has responsibilities to his brother and to the people as a whole which would have collective consequences only if there were a large number of violations.

The law which addresses Israel collectively suits the suzerain-vassal model of covenant. The legal relations governed by this law are the same as the classical tradition, particularly the Covenant Code. Hence, in content the Deuteronomic law belongs to a legal community. However, the collective duties embodied in this law correspond to treaty stipulations. That is, Israel as a corporate body owed Yahweh obedience. The duties owed Yahweh are another dimension of the law governing relations between members of the society.

Theologically, the law is no longer the 'grace' of Yahweh, his action of protecting and restoring his people, but 'works' to be performed by Israel. Israel owes Yahweh the duty of protecting and restoring itself. Yahweh has become removed from the action of the law. The people must perform it to ensure his favor. Whenever a major breach does occur in the community, the people are in such close proximity to it that they themselves share the guilt with the culpable. The court must purge the guilt from the community in order to restore its relationship with Yahweh. The enforcement of the law, thus, has not only the legal objective of righting wrong and restoring order, but the theological objective of expiation. The acts of other communal institutions serve a similar objective of maintaining divine favor.

Conditionality and Divine Sanctions. The provisions of the law and the duties of the treaty were sanctioned. Violation of community or non-fulfillment of duties resulted in punishment. If Yahweh was Israel's sovereign, the sanctions of the covenant could be expected to be distributive, corresponding to the law. If he played the role of a suzerain, covenant sanctions would be collective, i.e., threaten the people as a whole. In this case, the covenant could be said to be conditional upon Israel's compliance with the duties imposed upon it by Yahweh.

The descriptions of divine sanctions in the Yahwist, Elohist and Covenant Code were formulated on a distributive principle. Yahweh will show his favor to a great multitude, particularly the poor, weak, innocent and outcaste, and visit wrong on the perpetrator and his family. The curses in Dt. 27:15-26 likewise fall distributively on violators of the law. Yahweh acts, in these traditions, as a sovereign or judge who administers justice to his people.

We argued that the classical covenant texts did not depict the covenant between Yahweh and Israel as conditional upon Israel's obedience. The acts by which the covenant was put into force symbolize divine favor and kinship. The older version of Josh. 24 may constitute an exception, but the 'witness stone' probably threatened only distributive divine sanctions and might well have not threatened sanctions at all, but rather have been a reminder that divine law had been promulgated and was in force.

Scholars have often maintained that Ex. 19:3-8 envisages a conditional covenant. We argued that the conditions pertained to the corporate recognition of Yahweh's power to command and hence were fulfilled by the people's pledge to obey. This pledge was a promise, but no mechanism was formulated to hold them to their word. Once the people recognized Yahweh's sovereignty and law, the legal order, with its distributive justice, was in force. Collective responsibility for

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adherence to the pledge emerged to consciousness, in our opinion, only when adherence had become problematic due to mass defection, at the earliest ca. 840 B.C.

The fact that the covenant was not conditional should not lead to the surmize that it was unconditional. It would be more appropriate to describe the classical covenant as non-conditional. There was no independent corporate entity, Israel, apart from Yahweh. Yahweh's sovereignty over Israel and Israel's existence as a legal community were interdependent. Israel came into existence as a legal community by recognizing Yahweh's sovereignty, and Yahweh became Israel's sovereign by corporate recognition. The divine sanctions were aimed at protecting, restoring and vindicating the community for whose welfare he had assumed responsibility. The institutions of the community were instrumentalities of his sovereignty.

Our examination of responsibility and divine sanctions as portrayed in Biblical narratives, psalms and prophecy confirmed our analysis of the classical covenant. The people were not held responsible for the acts of individuals, though they might suffer as possessions of their king or receive a blow so that some offense would be called to their attention. Even when the people were apostate or rebellious in mass during the wilderness sojourn, the older traditions resolved the responsibility distributively. Down to the eighth century, the prophecy of judgment was addressed to individual offenders, corresponding to the classical covenant. Communal lament existed from an early time, but the blows to the community were not explained in terms of communal guilt until approximately the exilic period.

Prophecy and lament have histories parallel to the covenant.

The author of Deuteronomy consciously modeled his presentation of divine sanctions upon the blessing and cursing formulae of the suzerain-vassal treaty. In fact, it appears that he actually borrowed some curses from Assyrian suzerain-vassal treaties. The people of Israel are the party subject to sanctions. They are threatened with the possibility of complete obliteration (esp. Dt. 28:20-26) if they fail to fulfill the collective duties enunciated in law.[1]

Noth and von Rad have been at pains to exonerate Deuteronomy of the charge of 'legalism.'[2] Their position must be qualified.[3] Since 'legalism' is something of a pejorative characterization, we shall not use it. Instead we shall use the word conditional. God's favor and blessings are, according to Deuteronomy and Josh. 24, dependent upon Israel's fulfillment of its duties to Yahweh. This does not mean that the divine favor is earned, for it has been freely bestowed upon Israel by Yahweh. His election of Israel and deeds in its behalf have the unconditionality of the perfect tense. They are

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[1] Our examination of communal laments indicated that natural disasters, e.g., droughts, plagues, etc., could be interpreted as divine sanctions against the community under the classical covenant. There is no evidence, on the other hand, that complete national obliteration was expected. Moreover, national guilt was not considered a sufficient explanation even for these restricted sanctions.

[2] Noth, "Righteousness and the Law," Essays, pp. 126ff; von Rad, OTTh I, pp. 195ff, 230ff.

[3] Cp. Gerhard Ebeling, "Reflections on the Doctrine of the Law," Word and Faith, tr. James W. Leitch (Philadelphia: Fortress Press, 1963), pp. 264f.

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God's gift, given simply because he loved them. There is no doctrine of rewards and punishment in the strict sense in Josh. 24 or Deuteronomy. Nevertheless, the people have the power to maintain or abrogate God's favor. The continuation of the covenant is dependent upon Israel's response to God's love. By receiving his favor, the people have become obligated to obey him. If they do not fulfill their duties to their God, articulated by the several institutional organs charged with responsibility for the religious, legal, military and economic affairs of the community, they will be subject to his wrath. God holds the people corporately responsible for its decisions and actions.

The author of Lev. 26, we aver, picked up the idea of ending a collection of law with blessings and curses from Deuteronomy. This ending has almost no basis within H, for its law is distributive and its general paranesis insists upon distributive accountability. The prophetic message, Deuteronomy and the experience of being in exile have influenced its understanding of the covenant and history in spite of the absence of the theological presuppositions necessary to hold this position consistently.

The Priestly Writer was acquainted with the threat of divine wrath against the people, but he nevertheless formulates a covenant which is unconditional and ever-lasting. The law organizes the community to protect it against the divine wrath. Responsibility is distributed as much as possible and cultic rites and personnel atone for collective guilt. The people can sustain the blows of divine judgment which occur in spite of all of these precautions. Thus, P was able to portray the covenant as a divine promise whose fulfillment depended solely upon God. P separates the divinely established institutional framework of the people, with the cultus at the center, rather radically from the human corporate body, Israel. The latter is capable of incurring guilt, but the former transcends the ambiguities of human life.

Individual and Community. We have not focused our attention on the relationship of the individual to the community or to God in the course of our argument because the covenant was between God and the people. Nevertheless, the covenant did give an answer to this problem which so disturbs and perplexes modern thought.[1] The sovereign-subject model of the covenant preserved Israelite thought from both individualism and collectivism. Each individual, actually each family head, had a personal standing before God. He was the subject of the sovereign to whom he owed obedience and before whom he was responsible. The individual was not, contrary to common scholarly opinion, swallowed up in the collectivity, the people of Israel. There was no collectivity apart from God and each individual's relationship to him.

On the other hand, the individual was not isolated before God. He had this God only as a member of the community. He was a subject of God. To acknowledge God as sovereign was to participate in the communal recognition. By joining the community each individual shares the vocation and destiny given it by its God. Serious disobedience of

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[1] Cp. Walter Odajnyk, Marxism and Existentialism, (Garden City, N. Y.: Doubleday and Company. Anchor Books, 1965).

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the sovereign leads to exclusion from his community. A member's action has meaning for the community precisely because it is before God. God incorporates it into the common history, fulfilling it or surmounting its destructive effects.

In the prophetic message and Deuteronomic covenant, the community attains a collective existence apart from God and the individual is subordinated to the collectivity. We shall argue in the second section of this chapter that the community attains its collective existence in rebellion against God. The individual is absorbed into the community by being caught up in its corporate and institutional corruption and guilt and thereby becomes subject to its fate.

The Deuteronomic covenant understands the individual's acts to be inextricably bound up with the social organism. The main thrust of the Deuteronomic law is to arouse the communal institutions to limit the collective consequences of these acts as much as possible. As a member of the people, each individual shares responsibility and accountability for the action of the people with the rest of the people before God. The individual's acts and fate were enmeshed in a collective totality. The reform which Deuteronomy seeks to institute is necessarily of corporate magnitude. Every member of the people must take personal responsibility for the corporate behavior of the people.

The Historical Course Leading from Divine Sovereignty to Suzerainty

To resolve all of the issues which we raised in Chapter I, we need to conclude our study with an hypothesis to explain why the authors of Josh. 24 and Deuteronomy replaced the sovereign-subject model of the covenant with the suzerain-vassal model. In particular we must settle accounts with J. Wellhausen. We agree with him that classical prophecy played a significant role in the change of the conceptual framework of the covenant. Precisely because we agree with him on this central point, we must take pains to distinguish our view of Israel's history from his form developmental interpretation. In contrast to Wellhausen's characterization of the early covenant as a 'natural relationship,' we would stress its politico-legal nature. In contrast to Wellhausen's view that the prophets represent a new understanding of the relationship of God and Israel, we would stress the newness of the historical situation from which the prophets interpret the tradition. The prophets do not so much heighten the sense of the divine righteousness, as the Wellhausen school maintained, as submit a radical critique of the society of their time. Finally, Deuteronomy does not so much represent a systematization of the prophetic message as a reaction to and against it. That is, Deuteronomy was a reform program to avert the judgment announced by the prophets.

Prophetic Influence on Covenant Thought. If the covenant traditions of the older sources represent the 'classical' covenant, we must ask what intervened to cause the modification of models in the extant version of Josh. 24 and Deuteronomy. The Wellhausen school traced the idea of 'covenant,' or in our terms the suzerain-vassal model of the covenant, to the prophets. To cite a famous passage from Wellhausen's *Prolegomena*,

> The theocracy (did not) exist from the time of Moses in the form of the covenant. . . . The relation of Jehovah to Israel was in

> its nature and origin a natural one; there was no interval between Him and His people to call for thought or question. Only when the existence of Israel had come to be threatened by the Syrians and Assyrians, did such prophets as Elijah and Amos raise the Deity high above the people, sever the natural bond between them, and put in its place a relation depending on conditions, conditions of a moral character. To them Jehovah was the God of righteousness in the first place, and the God of Israel in the second place, and even then only so far as Israel came up to the righteous demands which in his grace He revealed to it.[1]

Much of twentieth century scholarship in the covenant has been devoted to refuting this thesis. If, however, our argument for a change of covenant models is valid, the possibility of prophetic perspective influencing the change must be taken seriously.

Josh. 24 may have been composed prior to Amos and Hosea during the period in which the presuppositions of classical prophecy were emerging in prophetic circles.[2] In fact, Joshua's warning that Israel will inevitably defect and come under the divine wrath (Josh. 24:19f) sounds like a prophetic indictment of the Israel of his own time. Thus, Josh. 24 may actually be a prophetic text. The term 'influence' may, therefore, be inappropriate.

Deuteronomy, we believe, was a reaction to classical prophecy which, like most reactions, accepted some of the presuppositions of its opponents.[3] The influence of classical prophecy can be located in the Deuteronomic collectivization of the law and divine sanctions, and perhaps also in its view of the past.[1] The prophets raised an indictment against the people collectively and sentenced them collectively. The parallelism between the collective indictment and sentence of the prophets and the collective law and divine sanctions of the Deuteronomic covenant is too exact to ignore. Under the pressure of the prophetic message, the law could no longer be seen simply as distributively addressed and sanctioned. Strictly legal thinking had broken down under the radical perception of the prophets. Single acts of law violation were no longer seen by themselves, but were associated in prophecy with the corruption of the entire people. If the totality was mired in corruption, it must be done away with by God.

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[1] Prolegomena, p. 417.

[2] See chapter three above.

[3] On the idea that Deuteronomy opposes the classical prophets, see G. von Rad, "Die falschen Propheten," ZAW 51 (1933), pp. 109ff.

To the author of Deuteronomy, if the prophets can raise an indictment against the entire people, the law must have always been a collective duty; if the prophets can announce a sentence against the people, the covenant must have always had divine judgment as a conditional possibility. The author of Deuteronomy probably revised the covenant traditions, and particularly the law and divine sanctions, under the conviction that the covenant had always involved collective demands and sanctions. He viewed the Covenant from a perspective different from its original framers, viz., from the period of classical prophecy.

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[1] We have in mind a connection between the 'contrast motif' of classical prophecy (Westermann, Basic Forms, pp. 182-184) and Deuteronomy's anchorage of the election in God's past saving deeds. This link is difficult to prove, however. The logic of our position is: Both prophecy and Deuteronomy speak of Yahweh's past saving grace in distinction from the present.

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The author of Deuteronomy, however, saw prophecy from a perspective which differed from the prophets' own self-understanding. The prophets saw the people as already radically, irredeemably guilty before God and hence under the sentence of destruction. The author of Deuteronomy understood prophecy to be a call to reform. Judgment was possible but not inevitable.[1] Knowing judgment to be a serious possibility, Israel should be prodded into a renewal of its efforts to suppress heterodoxy, purge evil from its midst, fight courageously, and achieve justice and equality among all members of society.

The author of Deuteronomy ignored the possibility of eschatological salvation, of a divine re-creation of Israel in and after judgment.[2] He placed his hopes on the preservation of the *status quo*, a reformed and vigorously exercised *status quo*, but a *status quo* nevertheless.[3]

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[1] The prophets did not exclude the possibility of reform: cp. Westermann, *ibid*., pp. 184f. The interpretation of the prophets as announcing unconditional judgment is drawn from Westermann, *ibid*., pp. 127f, and elsewhere. This interpretation of classical prophecy probably needs greater substantiation and amplification than we can provide in this study. However, our assertions can be easily verified or falsified by the reader. ?

[2] Cp. G. von Rad, *Gottesvolk*, pp. 65ff.

[3] Jürgen Moltmann, *Theology of Hope*, Tr. James W. Leitch (New York and Evanston: Harper and Row, 1967), pp. 122f, has offered the provocative hypothesis that the conditional understanding of God's relationship to his people arose when his promises went unfulfilled. Reflection upon the reasons for non-fulfillment turned against themselves: God has not fulfilled his promises because we have sinned. We would argue that in the case of Deuteronomy, it is the *threat of judgment*, rather than the non-fulfillment of salvation, which led to the conditional covenant. We do agree with Moltmann's theological assessment of the conditional covenant: God's fulfillment of his promises is "made to depend upon obedience, and obedience is understood as a *conditio sine qua non* and as a return achievement on man's part" (*ibid*., p. 123). "But this means that the power of promise to attain to fulfillment lies no longer in the faithfulness of God himself, but in the obedience of man" (*ibid*.).

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The established state of affairs was a pure, unmotivated gift of Yahweh. It was a 'state of grace' which was created by Yahweh at the beginning of Israel's history. This state of grace was in jeopardy. It had to be revived and reformed in order that it might be preserved. The author drew out the stake of the community in the maintenance of law and order and the achievement of an equal distribution of the community's blessing. Every Israelite had to be made more concerned about his personal responsibilities to his brothers, especially the weaker members of the community, and his communal responsibilities as a judge, layman and soldier.[1] Above all, the people singly and collectively had to remain loyal to Yahweh alone and maintain a pure worship of him at the place of his choice.

The relationship of Deuteronomy to prophecy is complex and prophetic influence is largely indirect. There are very few actual provisions or concepts in Deuteronomy which can be traced exclusively to prophecy.[2] The classical prophets, however, precipitated the collectivization of the law and divine sanctions and the corresponding reform movement. Ultimately, the author of Deuteronomy was an opponent of the prophets, a reformer over against radicals.[3] What was inevitable for the prophets was only a possibility, though a threatening one, for Deuteronomy.

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[1] The most thoroughly collective understanding of Israel before God came into being when its continued corporate existence appeared most questionable.

[2] So M. Weinfeld, "Origins of Humanism in Deuteronomy," op. cit., pp. 241ff; von Rad, Studies, p. 69.

[3] See von Rad, "Die falschen Propheten," op. cit., pp. 109ff.

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Models of Israel's History: Although we have adopted Wellhausen's thesis that the prophetic message was the decisive factor that intervened in covenantal history to produce the suzerain-vassal model, we do not wish to adopt his interpretation of the historical process. We wish to employ a different model of history from the one used by Wellhausen. This will lead us into the philosophy of history.

Wellhausen's view of history is often called 'evolutionary.' Actually this characterization may be misleading. The 'evolutionary view of history' normally implies a progressive view of history, viz., that historical events tend inevitably toward greater human power, intelligence and community, and Wellhausen did not find continual progress in Israel's history.[1] Rather, he viewed it as passing through something of a life-cycle of youth, maturity and old age. If we wish to use the term 'evolutionary' to denote this position, we must use it in the chastened sense of the emergence of novel forms in the temporal process, novel forms which can be understood as slow structural changes of prior forms.

Another feature of Wellhausen's interpretation of Israel's history is just as important as his view of its course: It was oriented toward the history-of-ideas. That is, Wellhausen was tracing the history of Israel's ideas about God and God's relationship to men. With respect to our topic, he traced the development of Israel's understanding of its God from a 'natural' to a 'conditional' view. He sought the significance

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[1] Cp. J. Barr, Old and New in Interpretation, pp. 180, 206n, and the references cited there.

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of the prophetic movement in the new ideas which it contributed to this development. Ironically, Wellhausen was also something of an epiphenomenologist, attributing the prophetic ideas to the rise of external threats to Israel's existence.[1]

It will not be necessary for us to argue against Wellhausen's view of history, but simply to point out how it differs from our own. We are interested in employing a model more consonant with the Biblical understanding. The evolutionary history of ideas approach, in which history is viewed as the story of human ideas about reality, is, from the Biblical point of view, too subjective. The dominant Biblical view is that the involvement and conflict of God and men forms the sum and substance of historical life. The Biblical narrators could tell the story of man's progress in the arts of civilization, including intellectual sophistication, as a tale of continuous rebellion against God, his judgment and mercy (Gen. 2-11). This essential issue of the drama of history remains the same from generation to generation despite the increase in man's power and knowledge.

Wellhausen's interpretation of prophecy brings the difference between the Biblical view and the evolutionary model to a head. Prophecy was conceived after the analogy of a judicial proceeding: The people were indicted and sentenced. If Wellhausen is correct that the prophets originated the view that God could judge his people for violating his law, then Israel would be convicted *ex post facto*. That is, Israel would be held responsible for violating demands of which it was not aware. In our opinion, Israel's history must be interpreted in such a way that Israel was responsible for the situation for which Israel was, in reality, indicted.

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[1] *Loc. cit.*

The course of Israel's history depicted by Mendenhall and Lohfink would make Israel directly responsible. According to these scholars the covenant set out what was expected of the people and the consequences of non-fulfillment from the start. The people consciously violated the covenant and thus could be held responsible by the prophets.

This position does not find support in the classical covenant texts. Moreover, it does not appreciate the profundity of the problem: The people did not consciously and maliciously violate the covenant order. Rather, the situation described by the prophets emerged over several centuries and followed an "inevitable" course. The people of Israel simply went through a course of institutional and spiritual change which many peoples go through.

The people of Israel underwent a process of institutional solidification and stagnation. The institutions became self-serving and self-perpetuating. Economic classes emerged and the courts protected the interests of the rich and powerful. A formal government was established. The monarchs monopolized power in the society and became embroiled in the international struggles for power. Israelites became acclimated to Canaanite culture and compromises were made with this culture and its religion. The people became morally and religiously tolerant. Yahwism ceased to be a radical movement and became instead ~~a~~ an established order. It was this slow, imperceptible and fundamental development that created the situation condemned by classical prophecy.

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There is an ironic dimension to this process: The success of the covenant led to the situation indicted by the prophets. The covenant was the organizing force in pre-monarchical Israel. It brought order out of chaos and anarchy. It produced the sense of unity and identity as a people which resulted in the creation of the monarchy. The cultus and judicial system seem to have continued without great modification from the tribal confederacy into the monarchy. The very processes which resulted in divine judgment were the secondary consequences of divine grace. The covenantal order made possible and set in motion the forces which were the undoing of the community it created.

On the other hand, it was against this same covenant and law that the prophets measured the Israel of their day and found it wanting. Studies of the prophets have shown that they raised their indictments against Israel on the basis of covenant law.[1] The people were not convicted _ex post facto_, but rather by a law all recognized to be in force among them. What they were not entirely aware of was the change that had taken place in the community as a whole. The institutional and spiritual transformation of the people made it impossible to comply with the legal order as it was originally set up.

Our description of the course of Israel's history leading from the classical covenant to prophecy is simply a combination of J.-P. Sartre's description of the course of revolutions[2] and the Augustinian doctrine of the fall.[1] We understand the course of Israel's history to be a 'recapitulation' of the fall. This simple and seemingly naive conception is capable of interpreting the process more adequately and profoundly than the 'evolutionary' view of Wellhausen or the anti-evolutionary view of Mendenhall and Lohfink.

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[1] Cp., e.g., E. Würthwein, "Amos-Studien," _ZAW_ 62 (1949/50), pp. 10-52.

[2] The 'social dialectic' expounded in _Critique de la Raison Dialectique_, discussed in W. Odajnyk, _op. cit._, pp. 137ff.

There is one other component which has entered into our interpretation: the concept of action drawn from the theory of drama. T. Driver defines action as "the "intension" of the events -- that quality within them which puts them, as it were, into tension, and gives them a "tendency" to a certain outcome."[2] This concept can aid us in observing a direction and inevitability in a given complex of events. It may also help us to discern how individuals and groups can participate responsibly in historical process and yet not control the outcome. Both of these aspects of action are necessary, we believe, to understand the course of Israel's history leading from the classical covenant to the prophetic message and Deuteronomy.

Divine Sovereignty over the Tribal League. Now we need to discuss some of the particular points of our agreement and disagreement with Wellhausen. Let us begin with the earliest stages of the relationship of God and Israel. According to Wellhausen, the Davidic state created the nation.[3] Yahwism developed concurrently into a national religion:

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[1] Expounded by R. Niebuhr, *Nature and Destiny of Man* I, pp. 251-264.

[2] *The Sense of Time and History in Greek and Shakespearean Tragedy* (New York: Columbia University Press, 1960), p. 78.

[3] *op. cit.*, pp. 413f.

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"The kingship of Jehovah...is the religious expression of the fact of the foundation of the kingdom by Saul and David."[1] We would reverse this equation. The 'nation' was created prior to the state by the national religion, or better the religio-legal order of the covenant. The divine monarchy existed for several two? hundred years prior to the human monarchy, and in fact before a state was a possibility. Divine sovereignty over Israel was not so much a religious idea, an analogy drawn from the human sphere, as a socio-political fact. The Davidic monarchy, in fact, represented a decisive erosion of Yahweh's sovereignty and initiated the decline of the sovereignty covenant.

We cannot deny that there are several close similarities between our understanding of the classical covenant and Wellhausen's description of the relationship of God and Israel in the early period. For example, we concur with him that the "Torah of Jehovah . . . originally, like all His dealings, fell under the category of divine aid."[2] We would also accept his statement that "there was no interval between Him and His people to call for thought or question,"[3] if this is taken to mean that there were no threats of divine sanctions against the entire people. He is even Biblical when he speaks of a "natural bond"[4] between Yahweh and Israel (so Ex. 24:3-8).

On the other hand, Wellhausen's description may leave some false impressions. We would stress, in contrast to the tendency of his assessment, that the classical covenant was a politico-legal order. The law was not marginal, but central to the covenant relationship. Yahweh's sovereignty was precisely the power to command and enforce his commands. Moreover, divine sovereignty was not restricted to any particular field of legal relations, but extended to encompass encompassed the entire legal order.

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[1] Ibid., p. 414. [2] Ibid., p. 418. [3] Ibid., p. 417. [4] Ibid.

The concept of a 'natural bond' implies for Wellhausen that God was identified with the collective will, that he did not transcend the community. This is not true to the covenantal texts. God transcends the people as universal God. He has, as it were, a power base apart ? from Israel. It is precisely his independent power which impressed the people of Israel into recognizing him as their sovereign. He was the source and ground of the corporate entity, and it had no independent existence. Yahweh was independent and Israel dependent both historically and theologically. His transcendence was the theological basis of his freedom for Israel:

> You shall be my own possession among all peoples,
> for all the earth is mine. (Ex. 19:5b)

Precisely because Yahweh owns all nations, he has the power to single out one people for a special relationship and vocation.

Early Yahwism was a radical, revolutionary religio-political movement. Yahweh was known as the God who had liberated slaves from Egypt and who would overthrow the established city-state oligarchical system of Palestine to give the land to these slaves, and to the powerless and excluded of the land.[1] During the pre-Davidic period, we have a groupe en fusion.[2] There was a confluence of interests among the disaffected Hab/piru and various other elements of the hill country of Palestine which made a 'latent' community.[1] Yahwism acted as a catalyst of this latent community, inaugurating the tendency which resulted in nationhood.[2]

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[1] Cp. G. Mendenhall, "Hebrew Conquest of Palestine," Biblical Archaeologist 25, pp. 84ff.

[2] See Odajnyk, op. cit., pp. 150ff.

The internal structure and development of the Israelite people was true to its character as a radical movement. A deity was the source of its identity and common concern. Hence, no ruling oligarchy emerged within the nation to direct and control the formation. Every elder was an equal of every other before God. Of course, divine sovereignty was exercized through officials and institutions. Leadership was fluid and provisional, however, for authority was derived from the divine sovereign and subject to divine judgment. Yahweh was the only real sovereign over Israel. The looseness and multiplicity of human institutions and the fierce independence of the people preserved the sovereignty of Yahweh from becoming simply the ideological support of a structure of human authority.[3]

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[1] Reinhold Niebuhr, Faith and History, (New York: Charles Scribner's Sons, 1949), p. 222, states that the creative epochs of nations involve a common concern among the members of a society and favorable conditions which bring out a coincidence of interests and allow them to flower. In his opinion, the coincidence of interests "is historically the more important. It is the virtue which arises not from pure disinterest but from the provisional coincidence between the interests of a ruling group within a nation and the interests of the total community...A too moralistic approach to the collective life of mankind usually fails to do justice to this important 'righteousness which is not our own,' this virtue by grace of providence and coincidence rather than by goodness."

[2] Cp. Mendenhall, "Hebrew Conquest of Palestine," op. cit.

[3] M. Buber, Kingship of God, pp. 90ff, finds parallel 'theocracies' in ancient South Arabia. Cp. also the 'primitive democracies' of ancient Mesopotamia, discussed by Frankfort, Kingship and the Gods, pp. 215-230. This may be a cultural phenomenon which could be verified by cultural anthropologists for certain stages of development in many cultures.

The claim that the universal God is the special possession of a community and his favor its prerogative is the archetype of human sin.[1] Does divine sovereignty and the correlative, election, represent an instance of this collective pride? We would answer "no": What early Israel did was to radicalize a general religious ideology and thereby, we believe, purge it of its pretentious character to reveal the ultimate truth hidden behind the fallacy. Since it was established structurally in the community, divine sovereignty in Israel was not an inflation of the collective ego and deification of its will. The people of Israel was not a corporate entity which could make Yahweh into an ideological support of its own life and will. Yahweh's sovereignty over Israel was an 'empirical reality' in the sense that God occupied this empirical position in society. 'God,' of course, is not an empirical entity, but the people of Israel were organized around the principle that 'he' could actually effectively rule the community through specific structures and historical processes.

The claim to be elect was perilously close to sinful pretention, only a hair's breadth from an ultimate falsehood. When Yahweh did become an ideological support of a self-sufficient corporate body, its beliefs passed over that line into pretention. There was no given, datable moment when this actually happened, but the establishment of the monarchy was a decisive turning-point in that direction. The

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[1] R. Niebuhr, Nature and Destiny I, pp. 208ff; II, pp. 18, 23f. Niebuhr is perhaps too antagonistic to nationalism to grant a positive significance to election. In his Faith and History, pp. 103ff, we can discern a growing appreciation of election and covenant.

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transformation was an inevitable development of the tendency toward a more and more ordered community.

The Problem of Collective Guilt. The fundamental issue confronting Biblical scholarship with respect to the prophetic indictment of the entire people of Israel is whether the concept of collective guilt was a new idea or a new reality. J. Wellhausen treated it as a new idea:

> Only when the existence of Israel had come to be threatened by the Syrians and Assyrians, did such prophets as Elijah and Amos raise the Deity high above the people, sever the natural bond between them, and put in its place a relation depending on conditions, conditions of a moral character.[1]

Under the influence of external historical movements which threatened Israel's continued existence, according to Wellhausen, the prophets changed the idea of the relationship between God and Israel from a natural bond to a conditional one. Collective guilt could arise under the latter.

It is our position that we should trace the concept of collective guilt to a change in historical reality, *viz*., to the collectivization and institutionalization of Israelite life. It was not that the prophets had a new idea about a static reality, but that they confronted a new reality, a corrupt, hardened totality, and formulated a new understanding of the law to interpret it. The problem for the historian, then, would not be one of accounting for the prophetic concept of collective guilty so much as accounting for the collectivization of the people in rebellion against God.

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[1] *Loc*. *cit*.

In order to confirm our hypothesis that the concept of collective guilt arose out of the collectivization of Israelite existence, we need to show (1) that the prophetic indictment of the Israelite people as a whole depends upon a transformation of the social organism from an essentially healthy to an essentially corrupt whole, and (2) that this transformation was in no small part an institutionalization of a movement. Let us take these in turn.

(1) We have maintained that under the classical covenant individual violators of the law were held responsible, while classical prophecy held the entire community responsible for every violation which occurred in its midst. This can be understood in terms of a modification of the social organism. Under the classical covenant the social organism was - or at least was assumed to be - healthy and individual violations could be dealt with on the assumption that they were deviations from a righteous order. Guilt was easily located with the deviant. The prophets viewed the social organism as a whole to be unhealthy and violations to be symptoms of an all-pervasive malady. The violator was no longer really a deviant, but a participant in a community-wide project. An individual could never entirely extricate himself from the condition of the people.

Aside from the significant exception of the monarchy, the prophets do not indict any institution as such, but rather officials, viz., counselors, wisemen, prophets, priests, scribes, judges, and particular classes of people, e.g., the rich, powerful, sophisticated, decadent, even the lower classes, for their behavior. However, we should not commit the fallacy of thinking the office to be neutral and the person who holds it to be entirely responsible for his behavior. Officials and members of classes are to a great extent products of their station and milieu. While we should not ignore the responsibility of an office-holder for his performance, neither should we obscure the power offices have over their holders. Not only is an office a temptation to personal self-aggrandizement, it also has an 'image' and a social role which the office-holder will conform to pre-consciously. If these latter are productive of justice and faithfulness, only the officials' performance threatens the social order. If they are productive of injustice and unfaithfulness, the office-holder's acts will have that force independently of his personal intention.

When, for example, a landed aristocracy developed in Israel and others became impoverished, the courts found themselves protecting the new economic arrangement of the community. Judicial justice would now be fostering communal inequities. The court would also tend to favor the rich simply because they had prestige, were the 'pillars' of society. Finally, the rich would make the law and courts a tool for the furtherance of their interests by devising legal fictions to annul the force of the law, by bribing jurors, and so forth. Hence, the behavior and effect of the judge would be determined to a great extent by the structures of society in which he operated. When Israelite society differentiated into socio-economic classes, the acts of the judicial officials were inextricably bound with these structures.

The economic stratification of the society was itself as much a product of impersonal forces as of the intent of individuals. The commercial civilization which developed in the cities had the capacity to generate its own practices, laws and needs (cp. Amos. 8:5f). Commercial necessity can become a power that rules persons, in fact whole societies. Those who benefit most from the system and exploit others are particularly culpable, but they are as much products of the impersonal forces as are the exploited.

The relationship of a people to their institutions is a very intimate and complex one. When the social organism is healthy, its institutions are a primary mode of maintaining the social order and peace. Hence, they could be understood under the classical covenant as instrumentalities of the divine governance of Israel. However, when the social order became corrupt, unfaithful and injust, the institutions maintained and furthered the dysfunctional order. While the prophets singled out particularly culpable individuals and officials, the entire people were to be held accountable. The behavior of the officials was both an expression of the tone and pattern of communal life in its totality and a major ingredient in setting the tone and policy of that life. When the society is corrupt, the acts of institutions can be predicated of the people as a whole.

(2) A primary feature in the transformation of the society from a healthy to an unhealthy organism was, we believe, institutional 'solidification.' Israel's corporate life became progressively structured and thereby achieved a progressively greater degree of collective existence. Movements inevitably lose their momentum and creativity as they succeed in creating structures. Institutions gain power over

individuals and groups.[1] This power increases when the institutions are not in flux as a part of a movement, but belong to a stable order and are aimed at preserving stability. The institutional structures which grew out of the Yahwistic movement or were built upon its accomplishments progressively usurped Yahweh's sovereignty. Yahweh's sovereignty progressively became a support for institutional authority and policy was determined by institutional need and the collective will-to-power.

Most of the counts of the prophetic indictment can be traced to the institutionalization and stratification of Israelite life. Let us examine just two of these, the monarchy and the cultus. The establishment of the monarchy represented the decisive institutionalization of Israelite life. Hosea traces one of the beginnings of Israel's decline to the creation of this institution:

> Every evil of theirs is in Gilgal; there I began to hate them.... I will love them no more; all their princes are rebels (Hos. 9:15).
>
> From the days of Gibeah, you have sinned, O Israel (Hos. 10:9).
>
> I gave you kings in my anger and I have taken them away in my wrath (Hos. 13:11).

The very existence of a monarch over God's people was ambiguous. On the one hand, it was built upon the sense of national identity created by the covenant and tribal league. Moreover, it was an inevitable development in response to expansion of Philistine power, for the tribal militia was not an effective force against the Philistine coalition.

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[1] See J. Ellul, The Meaning of the City, tr. Dennis Pardee, (Grand Rapids: Eerdmans, 1970).

On the other hand, Israel was to be ruled by a divine sovereign. A human sovereign would pre-empt responsibility hitherto reserved to Yahweh. With the election of David, Yahweh became a prop to a human regime and its policy.

We must realize that the power of monarchy was not a neutral power which could be used for good or ill according to the person in office. The office had power over its holder and over the people of Israel. It created its own needs and policies. It was not accidental that the first full monarch, David, became an emperor. The game of international power politics is built into the royal office. Likewise, it was inevitable that a taxation system develop to support the 'trappings' of royal power and prestige, and if the economy was not sufficient the king would force the people to work on his projects. Moreover, the king had his own military base so that he could maintain his power against any rebellion and act for his own interests in external affairs.

The monarchy provided an institutional basis for the collective will-to-power of the people. The people now could sublimate their will-to-power to the kingdom. Its glory and prestige accrued to them. Prior to the monarchy, there was no 'organ' for this type of nationalism. Israel's 'national prestige' was identical with the majesty of their divine sovereign, not that of a king, his army, palaces and the high culture of his court. Once Irsael had a monarch, it was forced to identify with him and to compete for honor among the nations of the world. More than any other institution, then, the monarchy created Israel as a collective entity.

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However, it was also the monarchy that led to the division of Yahweh's people. The northern and southern tribes may always have lived in separation from each other, so the secession of the north may have been rooted in an earlier regionalism. Nevertheless, it is a very striking fact that the monarchy produced a deep and unbridgable division between them. The 'Israel' of the covenant was not capable of the tight collective existence of a monarchical state. The theological 'Israel' transcended the kingdoms and thereby placed a limit on the theological pretentions of the kings. At most each kingdom could claim only to be an institutional embodiment of 'Israel.'

The prophets indicted the institutional developments of the Israelite cultus and heathenization of Israelite religion. These are not completely distinct indictments, but poles of the same fundamental charge. Hosea traces one of the beginnings of Israel's decline to religious defection:

> Like grapes in the wilderness I found Israel.
> Like the first fruit of a fig tree in its first season I saw
> your fathers.
> But they came to Baal-Peor and consecrated themselves to
> 'Shame'
> and became detestable like the thing they loved. (Hos. 9:10)
>
> When Israel was a child, I loved him, and out of Egypt I
> brought my son.
> The more I called them, the more they went from me.
> They kept sacrificing to the Baalim, and burning incense to
> idols. (Hos. 11:1f).
>
> When Ephraim spoke, men trembled; he was exalted in Israel.
> But he incurred guilt through Baal and died. (Hos. 13:1)

Hosea can tell the same story of defection as the accumulation of cultic accounterments:

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> Israel is a luxuriant vine that yields its fruit.
> The more his fruit increased, the more altars he built;
> as his country improved he improved his pillars. (Hos. 10:1)

In this case, and in several others in Hosea (e.g., 4:12, 13:2), it is not certain whether the people are guilty of worshipping a deity with the wrong name or falsely worshipping Yahweh. The development of a lavish Yahwistic cultus was as much a sign of religious defection as overt apostasy.[1]

The defection of the people to Baal and the institutional development of the Yahwistic cultus have, we suggest, the same result: the transformation of worship into a religious support of the national and economic life of the people and its institutional structure. When 'Israel' defected to Baal, it set itself up as distinct, a self-sufficient entity apart from its God, Yahweh. As a collective entity, it entered into relationship with deity on pragmatic terms, whether deity went by the name Baal or by the name Yahweh. The worship of deity was aimed at the preservation and glorification of the social order. The cultus became a source of prestige and its ritual an art-form of high culture. Its performance was oriented toward the maintenance and glorification of its blessings and success.

When Hosea reviews Israel's history to uncover the origins of Israel's 'double iniquity' (Hos. 10:10),[2] he surveys this history from the standpoint of its secondary consequences. The participants in the defection to Baal and those who acclaimed Saul king at Gilgal were not aware of entering into collective guilt. The culpable were punished for their defection to Baal (Num. 25:1ff, etc.) and those who acclaimed Saul to be king were not even aware of being guilty (1 Sam. 11:12-15*). Only as the history of Israel unfolded could the archetypal character of the early defections to Baal be seen. We have suggested that the prophetic school preserving the Elijah tradition was the first to become aware of the collective dimension of apostasy. Between the beginning of the classical covenant and the rise of prophecy the people had undergone a fundamental transformation. Israel was structurally capable of and hence culpable for apostasy. Again, only in the light of later history could the fatefulness of the establishment of monarchy be seen.

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[1] Cp. Amos 2:8, 3:14, 4:4f, 5:21ff, 25, on the indictment of the Yahwistic cultus.

[2] On the significance of this summary of Hosea's indictment, cp. Gottwald, All the Kingdoms, p. 140.

When the first generations of Israel incorporated as Yahweh's people, they did not envisage the manifold secondary consequences of their decision. Their intention was to create order and community. They probably saw the possibilities of failure, but were hopeful that they, under their divine sovereign, could surmount them. Defections and crimes were put down by force. It is doubtful that they were conscious of the dangers that would accompany relative success. Nevertheless, it was precisely the success of the tribal league in developing an institutional structure and national identity, along with a continual tendency to seek independence from Yahweh, that led to the collectivization of the community in rebellion against Yahweh. Institutions inevitably become self-perpetuating and self-serving when they achieve a tolerable success. The people of Israel underwent a process of institutional solidification and stagnation. An established order did become entrenched in power. When the people were confronted with the prophetic word, the structure of Israel was so solidified and lethargic that reform from within was impossible.

The course of Israel's history was not an accident, but an inner tendency of the original decisions, intended consequences and rebellious acts which were originally surmountable. Even the first generations were implicated in the later course of history, and no single generation was significantly more or less responsible than any other. The inevitability of the course of Israel's history does not release any generation, or all together, from responsibility for the outcome.[1] The demands of Yahweh had been known from the beginning. The prophets did not condemn the people on the basis of new laws or concepts. It did not know some new requirement of God or a more demanding God than the God of the classical covenant. The people were convicted by a law all knew by a God all knew. Nor was this law incapable of fulfillment: It was simply the law of a legal community, not decisively different from the legal traditions of other nations. Rather, the people of Israel became enslaved to the very structures which had originally freed them from anarchy and impotence.

Prophecy and Deuteronomy. We have adopted Wellhausen's view that the prophets were instrumental in creating the conditional covenant.

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[1] This is a perennial problem in philosophy and ethics. Augustinianism tries to steer a course between necessity and freedom of choice. Sartre evidently is seeking to achieve a similar solution without transcendence: cp. Odajnyk, *op. cit.*, pp. 169ff.

We have at the same time found it necessary to distinguish our position from his at almost every point. To conclude our discussion, we need to compare and contrast our view of prophecy and Deuteronomy with Wellhausen's. Wellhausen attributed the conditional understanding of the relationship of Yahweh to Israel to the prophets, who "severed the natural bond between (Yahweh and Israel) and put in its place a relation depending on conditions, conditions of a moral character."[1] The eighth century prophets themselves did not use the word ברית.[2] Nevertheless, this term, which came into use as a result of the way Josiah introduced the Deuteronomic law,

> fitted very well with the great idea of the prophets, and received from it in turn an interpretation, according to which the relation of Jehovah to Israel was conditioned by the demands of his righteousness, as set forth in His word and instruction.[3]

The experience of exile stamped the idea that the covenant depended upon conditions indelibly on the Israelite mind.[4]

It would serve no purpose to quibble over various points of Wellhausen with which we disagree, the dating of the law in the covenant, the dating of the term ברית, the forces leading to prophecy, or even the idea that Deuteronomy understood the law to go into force by agreement. Rather, we wish to challenge his intellectualistic approach to prophecy and Deuteronomy. In our opinion, both prophecy and Deuteronomy must be understood as positions taken in a time of crisis, positions of a religio-political character. In particular, we would understand the prophets and the Deuteronomic circle to represent competing, though not completely antithetical, positions. The prophets took a radical position both politically and theologically, while the author of Deuteronomy was a reformer. The 'ideas' of each party were correlatives of their respective positions.

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[1] Loc. cit.

[2] Ibid., p. 418.

[3] Ibid.

[4] Ibid., p. 419.

The classical prophetic movement was the re-emergence of the radical Israelite tradition of the pre-Davidic era under new circumstances. By radical we mean that the prophets viewed the social organism in its entirety to be irredeemably corrupt and hence destined for divine destruction. The society formed a collective whole in rebellion against its sovereign. Evil had penetrated the structures of the society and the tone of its life. The distributive categories of the classical legal order were not sufficient to protect and restore the community, for distributive law requires a fundamental health in the legal order in order to perform its proper function. The law could not protect a people which was collectively implicated in its violation. Rather, it was a rod of judgment. The people as a whole were condemned under its provisions. The prophetic message itself was intended to evoke self-incrimination.(so, e.g., Is. 6:9f).

The prophets did not propose a new conceptual framework for the covenant. They do not introduce the idea of conditions into covenantal thinking nor suggest the suzerain-vassal model as an alternative to the classical covenant. The orientation of the prophets is to the present situation, the crisis of Israel before God and in history. They indict the people collectively for the disobedience which bound it together

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and pronounce the divine decision to put an end to the people. The God who had ruled over Israel as sovereign and supreme judge assumes the role of judge of the whole people for rebelling collectively against his sovereignty.

The prophetic message was radically theocentric. Yahweh had shown grace to Israel non-conditionally in its past and now sentenced it to judgment unconditionally. The message of judgment was based upon the contradiction between divine grace and Israelite rebellion.[1] Without the unique nature of divine grace, the corruption of the people could not be seen as so deserving of condemnation and judgment (so Amos 3:1-3). The prophets did not judge Israel against the standards set by other peoples, in comparison to which it would have fared well, but against God's grace and intention for it. Unconditional judgment is possible only where non-conditional favor has been experienced and expectations are exceptional.[2]

The conditional view of covenant predicates the divine action upon human action. Men are allowed the freedom to decide their own future, whether for good or for ill. The prophetic message was much too theocentric to allow men the power of self-determination. The decision to judge Israel was not stated conditionally, but as a final, sealed decision of a judge. God alone determines the future. God alone rules human destiny.

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[1] See the discussion of the contrast motif above.

[2] Both Amos (3:1-3) and Hosea (1:8f) invert the logic of election to deny the people the power to use the divine favor for its will-to-power.

Many scholars have interpreted the prophetic message along the lines of Wellhausen. The prophets, according to this view, either originate or revive the idea that the covenant depended upon the fulfillment of conditions. C. Westermann's study of prophetic speech forms should lay to rest this misleading interpretation of prophetic speech once-for-all.[1]

While the prophets do occasionally hold out the possibility that repentance and radical reform might bring a commuted sentence, it is clear how different this is from conditionality: The indictment and sentence have been pronounced; if the people were able to right themselves between sentencing and execution, God might repent of his decision.[2] However, he is not obligated to do so. Compare the comments of J. Ellul on repentance:

> Repentance does not condition God, does not tie the Lord's hands. But 'who knows?' And in fact these men did not repent because God consented to grant them pardon. And by leaving God's freedom of action complete, by accepting his judgment even after conversion, this collectivity made evident the truth of its conversion. Then God pardons.[3]

One might say that such repentance and reform is the functional equivalent of suffering judgment. Only a total transformation of the social organism could be called repentance in truth.

Moreover, the prophets did not expect repentance and reform in this sense. The power of evil had too strong of a hold upon the people and its institutions for it to free itself. For example, when the people repair to Yahweh after the reverses of the Syro-Ephraimite war and Assyrian invasion, Yahweh responds:

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[1] Basic Forms, pp. 128, 206ff, and throughout.

[2] Cp. Amos 5:15: 'Perchance Yahweh....will be gracious to the remnant of Joseph.'

[3] *Op. cit.*, pp. 69f.

> What shall I do with you, O Ephraim?
>   What shall I do with you, O Judah?
> Your love is like a morning cloud,
>   like the dew that goes early away. (Hos. 6:4)

Their repentance is ephemeral, so he will not relent.

The only real hope, according to Hosea and the prophets who followed him, was a radical hope, a hope which depended upon Yahweh alone. After the sentence had been executed, after all human hope had ended, God would redeem his work, would revive his people to life and heal them of their unfaithfulness. This hope was much less certain than judgment, and had a 'utopian' character. It depended solely upon the miraculous work of God, and one could do nothing to achieve it but wait expectantly.

Deuteronomy appears to have translated the prophetic possibility of reform into a program. That is, the prophetic sentence was translated into the category of conditional possibility and made into the motive for reform. The divine favor promised in the covenantal traditions became conditional in the process. By juxtaposing continued divine favor and judgment as alternative possibilities, the author was able to synthesize covenant and prophecy. Thereby, he was able to interpret the present crisis as nothing more than the perennial situation of Israel before its God. Let us explore each of these points further.

The classical prophets announced judgment unconditionally and held out the possibility of continued divine favor only for the unlikely prospect that Israel reformed itself radically in response to the prophetic message and Yahweh decided upon that basis to commute its sentence. This reform would have to be done for its own sake: It would not obligate Yahweh to repent of his decision. For the author of Deuteronomy, the prophetic message of collective judgment would prove true if the people were disloyal and disobedient. The possibility of judgment should work as a motivation to obey. To the prophets, a reform motivated by the expectation of averting judgment, purchasing grace, would itself be suspect, if not proof of unfaithfulness.

The author of Deuteronomy interprets the divine favor vouchsafed Israel in the covenant to be conditional on its loyalty and obedience. Unconditional divine favor, the undeserved condescension of Yahweh, formed the basis of the present order. However, the continuation of the covenantal order and all of its material benefits depended upon Israel's response to Yahweh's love. In contrast, according to the classical covenant texts the act of covenant-making puts the relationship into force in the present and it would continue henceforce without interruption. There was no way that Israel could earn or lose Yahweh's favor.

The adoption of the conditional framework, which means in practice the adoption of the suzerain-vassal model of the covenant, enabled the author of Deuteronomy to synthesize the covenant tradition and the prophetic message. He had, of course, a precedent in the account of covenant-making at Shechem (Josh. 24). However, whereas Josh. 24 appears to be formulated to make the people of ninth or eighty century Israel accept full responsibility for its disloyalty to Yahweh and therefore the divine wrath to which it was being subjected, Deuteronomy seeks a renewal of the people of Yahweh. While it extends the lines set down in Josh. 24, it has a new objective.

As a reformer, the author of Deuteronomy refused to accept the prophetic view that the present situation was a unique, unprecedented crisis. The force of Deuteronomy was to confront the contemporary Israel, i.e., the 'Israel' of the eighth or seventh century B.C., with its perennial situation before Yahweh. Since the beginning of its existence, particularly since the time when it entered Canaan, Israel has been confronted with the same decision between faithfulness and life and unfaithfulness and death. Deuteronomy does not assume the people to be guilty of the prophetic charges and thus destined for destruction. The people are simply confronted with the possibility of this happening. Deuteronomy does not even acknowledge that its revisions of the law are new and intended to rectify abuses and failures under previous law, for that would be to recognize the prophetic crisis.

Despite its insistence on the perennial nature of the present situation and refusal to admit its own revisionist character, the book of Deuteronomy was consciously formulated to institute a reformation of Israel. The objective structures are redesigned in order to facilitate greater compliance with the law and the entire document aims at persuading the people to act. The people are confronted with the choice of rededicating itself to Yahweh and renewing its efforts to fulfill his demands or losing the divine favor by rebelling. Every aspect of Deuteronomy is carefully formulated to motivate an effort at reform. In particular, the collectivization of the law draws out the communal significance of maintaining and enforcing the legal order.

The distributively addressed law calls for infinite concern for the welfare of the brother, and particularly the unfortunate brother. Renewal of obedience of Yahweh's will requires the efforts of the entire people, singly and collectively.[1]

Deuteronomy makes Israelite obedience to the divine law, a reform under the circumstances of its composition and publication, the focus of all that is said. It seeks to motivate Israel to preserve its 'state of grace' by radical obedience. Its conditional conception of covenant grows out of this endeavor to save the *status quo* from loss. The future depends upon human action. Probably it can be inferred from the Deuteronomic combination of reform and conditional covenant that the reformist consciousness is intrinsically conditional, anthropocentric, perennial, and preserving. Prophetic radicalism suggests, in contrast, an intrinsic connection between unconditionality, theocentricity and discontinuity. These two modes of being are recurring theological options for times of crisis.

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[1] Cp. Ellul, *op*. *cit*., p. 70: "And thus it happens that the extraordinary phenomenon of social sin, the work of no single man, is forgiven when a repentance occurs that is the work of all. (And we must never forget that this repentance includes not only the collective act of the population, but the individual act of each man as well --...)."

BIBLIOGRAPHY

Altmann, P. Erwählungstheologie und Universalismus im Alten Testament. ("Beihefte zur Zeitschrift für die altestamentliche Wissenschaft," 92.) Berlin: Verlag Alfred Töpelmann, 1964.

Bach, R. "Die Erwählung Israels in der Wüste (Nachwirkungen der unpentateuchischen 'Fundtradition'".) Unpublished doctoral dissertation, Bonn, 1952.

Bächli, O. Israel und die Volker. ("Abhandlungen zur Theologie des Alten und Neuen Testaments," 41.) Zurich/Stuttgart: Zwingli Verlag, 1962.

Balscheit, B. Der Gottesbund. Einführung in das Alten Testament. Zurich: Zwingli-Verlag, 1943.

Baltzer, Klaus. Das Bundesformular. ("Wissenschaftliche Monographien zum Alten und Neuen Testament," 4.) Neukirchener Verlag der Buchhandlung des Erziehungsvereins, 1960.

Barr, James. Old and New in Interpretation. New York: Harper and Row, 1966.

Bertholet, Alfred. Deuteronomium Erklärt. ("Kurzer Hand-Commentar zum Alten Testament," 5.) Leipzig: J.C.B. Mohr, 1899.

Beyerlin, Walter. Origins and History of the Oldest Sinaitic Traditions. Translated by S. Rudman. Oxford: Basil Blackwell, 1965.

Boecker, H. J. Redeformen des Rechtslebens im Alten Testament. ("Wissenschaftliche Monographien zum Alten und Neuen Testament," 14.) Neukirchen: Neukirchener Verlag des Erziehungsvereins, 1964.

Brichto, H. D. The Problem of "Curse" in the Hebrew Bible. ("Journal of Biblical Literature Monograph Series," Vol. XIII.) Philadelphia: Society of Biblical Literature and Exegesis, 1963.

Bright, John. A History of Israel. Philadelphia: Westminister Press, 1959.

Brown, Francis; Driver, S. R.; and Briggs, Charles A. A Hebrew and English Lexicon of the Old Testament. Oxford: Clarendon Press, 1959.

Brueggeman, W. "A Form-Critical Study of the Cultic Material in Deuteronomy. An Analysis of the Nature of the Cultic Encounter in the Mosaic Tradition." Unpublished Th.D. dissertation, Union Theological Seminary, New York, 1951.

Buber, Martin. Kingship of God. New York: Harper & Row, 1967.

Buis, Pierre, and Leclerq, Jacques. Le Deutéronome. ("Sources Bibliques".) Paris: J. Gabalda & Cie, 1963.

Burrows, Millar. An Outline of Biblical Theology. Philadelphia: Westminister Press, 1946.

Cazelles, H. Etudes sur le Code de l'Alliance. Paris: Letouzey et Ané, 1946.

Coats, George W. Rebellion in the Wilderness. New York: Abingdon, 1968.

Charles, R. H. The Decalogue. ("Warburton Lectures," 1919-1923.) Edinburgh: Clark, 1924.

Childs, B. S. Memory and Tradition in Israel, ("Studies in Biblical Theology," No. 37.) London: SCM Press, 1962.

Clements, R. E. Prophecy and Covenant. ("Studies in Biblical Theology," 43.) London: SCM Press, 1965.

Cook, S. A. The Laws of Moses and the Code of Hammurabi. London: A. & C. Black, 1903.

Dahl, Nils A. Das Volk Gottes: eine Untersuchung zum Kirchenbewusstsein des Unchristentums. Oslo: Dybwad, 1941.

Daube, David. The Exodus Pattern in the Bible. ("All Souls Studies," II.) London: Faber and Faber, 1963.

Daube, David. Studies in Biblical Law. Cambridge: The University Press, 1947.

Dillman, August. Die Bücher Numeri, Deuteronomium und Josua. ("Kurzgesfasstes exegetisches Handbuch zum Alten Testament".) Leipzig: S. Hirzel, 1886.

Driver, G. R. and Miles, J. C. The Babylonian Laws. 2 Vols. London: Oxford, 1952-1955.

XUM

Driver, S. R. A Critical and Exegetical Commentary on Deuteronomy. ("International Critical Commentaries".) New York: Charles Scribner's Sons, 1895.

Driver, S. R. An Introduction to the Literature of the Old Testament. Cleveland and New York: The World Publishing Co., 1956.

Eichrodt, Walther. Krisis der Gemeinschaft in Israel. ("Basel Univ. Reden".) Basel: Helbing, 1935.

Eichrodt, Walther. Theology of the Testament. 2 Vols. Translated by J. Baker. London: SCM Press, 1961.

Eissfeldt, Otto. Das Lied Moses. ("Berichte über die Verhandlungen der sächsischen Akademie der Wissenschaften au Leipzig," 104.5.) Berlin: 1958.

Eissfeldt, Otto. The Old Testament An Introduction. New York: Harper and Row, 1965.

Falk, Z. W. Hebrew Law in Biblical Times, An Introduction. Jerusalem, Israel: Wahrmann Books, 1964.

Feucht, W.C.M. Untersuchungen zum Heiligkeitgesetz. ("Theologische Arbeiten," XX.) Berlin: Evangelische Verlagsanstalt, 1964.

Fohrer, Georg. Elia. ("Abhandlungen zur Theologie des Alten und Neuen Testaments".) Zurich: 1957.

Frankfort, Henri. Kingship and the Gods. Chicago: The University of Chicago Press, 1948.

Frey, H. Das Buch der Verbindung Gottes mit seiner Gemeinde. Kap. 19-24 des zweiten Buch Mose. Stuttgart: Calwer Verlag, 1964.

Galling, Kurt. Die Erwählungstradition Israels. ("Beihefte Zeitschrift für die alttestamentliche Wissenschaft," 48.) Giessen: A. Töpelmann, 1928.

Gerstenberger, Erhard. Wesen und Herkunft des "Apodiktischen Rechts". ("Wissenschaftliche Monographien zum Alten und Neuen Testament," 20.) Neukirchen: Neukirkener Verlag des Erziehungsvereins, 1965.

Gottwald, N. K. All the Kingdoms of the Earth, Israelite Prophecy and International Relations in the Ancient Near East. New York: Harper and Row, 1964.

XUM

Gunkel, Hermann. Einleitung in die Psalmen. 2 Vols. Göttingen: Vandenhoeck and Ruprecht, 1931-1933.

Hempel, J. Gott und Mensch im Alten Testament. Studie zur Geschichte der Frömmigkeit. ("Beitrag zum Wissenschaft von Alten und Neuen Testaments," 3.2.) Stuttgart: Kohlhammer, 1926.

Hempel, J. Die Schichten des Deuteronomiums. Ein Beitrag zur israelitischen Literatur und Rechtsgeschichte. Leipzig: R. Voightländer, 1914.

Hentsche, Richard. Satzung und Setzender. Ein Beitrag zur israelitischen Rechtsterminologie. ("Beiträge zur Wissenschaft von Alten und Neuen Testament,"3.) Stuttgart: Kohlhammer, 1963.

Herrmann, W. "Die Bedentung der Propheten in Geschichtsaufriss des Deuteronomiums im Rahmen seiner theologischen Leitgedanken." Unpublished doctoral dissertation, Berlin, 1957.

Hertzberg, Hans Wilhelm. I & II Samuel, A Commentary. Translated by J. S. Bowden. ("The Old Testament Library.") Philadelphia: Westminister Press, 1964.

Hillers, D. R. Treaty-Curses and the Old Testament Prophets. ("Biblica et Orientalia," 16.) Rome: Pontifical Biblical Institute, 1964.

Holladay, W. L. The Root šubh in the Old Testament, with Particular Reference to its Usages in Covenantal Contexts. Leiden: E. J. Brill, 1958.

Van Imschoot, P. Theology of the Old Testament. Translated by Kathryn Sullivan, New York: Desclee, 1965.

Jacob, E. Theology of the Old Testament. Translated by A. W. Heathcote and P. J. Allcock. London: Hodder and Stoughton, 1958.

Jéhonda, J. La Vocation, d'Israël. Neuchatel: La Baconnière, 1948.

Jakobus, A. Des Gottesstaat. Die Prinzipien des Mosaischen Gesetzes. Frankfurt: Kaufman, 1926.

Jenni, E. Die alttestamentliche Prophetie. ("Theologische Studien," 67.) Zurich: Evz-Verlag, 1962.

Jepsen, Alfred. Untersuchungen zum Bundesbuch. ("Beiträge zum Alten und Neuen Testament," 3,5.) Stuttgart: Kohlhammer, 1927.

XUM

Jirku, Anton. Das weltliche Recht im Alten Testament. Stilgeschichtliche und rechtsvergleichende Studien zu den juristischen Gesetzen des Pentateuchs. Gütersloh: C. Bertlesmann, 1927.

Johnson, A. R. The One and the Many in the Israelite Conception of God. 2nd Edition. Cardiff: University of Wales Press, 1961.

Johnson, A. R. The Vitality of the Individual in the Thought of Ancient Israel. Cardiff: University of Wales Press, 1949.

Junge, Ehrhard. Der Wiederaufbau Heerwesens des Reiches Juda unter Josia. ("Beitrage zur Wissenschaft vom Alten und Neuen Testament".) Stuttgart: W. Kohlhammer, 1937.

Kaufmann, Yehezkel. The Religion of Israel. Chicago: University of Chicago Press, 1960.

Kilian, R. Literarkritische und formgeschichtliche Unterschung des Heiligkeitsgesetzes. ("Bonner Biblische Beiträge," 19.) Bonn: Peter Hanstein Verlag GMBH, 1963.

Kleinknecht, H. and Gutbrod, W. Law. Translated by Dorothea M. Barton. ("Bible Key Words".) London: A & C Black, 1962.

Kline, M. G. Treaty of the Great King. The Covenant Structure of Deuteronomy: Studies and Commentary. Grand Rapids: Eerdmans, 1963.

Klostermann, A. Der Pentateuch. Leipzig: A. Deichert'sche, 1907.

Köhler, Ludwig. Old Testament Theology. Philadelphia: Westminister Press, 1957.

Koehler, L. and Baumgartner, W. Lexicon in Veteris Testamenti Libros. Leiden: E. J. Brill, 1948-1953.

König, Eduard. Das Deuteronomium, eingeleitet, übersetzt und erklärt. ("Kommentar zum Alten Testament," 3.) Leipzig: A. Deichert, 1917.

Korošec, V. Hethitische Staatsverträge. Ein Beitrag zu ihrer juristischen Wertung. ("Leipziger rechtswissenschaftliche Studien," 60.) Leipzig, 1931.

Kraus, Hans-Joachim. The People of God in the Old Testament. New York: Association Press, 1958.

Kraus, Hans-Joachim. Die prophetische Verkündigung des Rechts in Israel. ("Theologische Studien," 51.) Zollikon: Evangelischer Verlag AG, 1957.

XUM

Kraus, Hans-Joachim. Worship in Israel. A Cultic History of the Old Testament. Translated by Geoffrey Buswell. Oxford: Basil Blackwell, 1966.

Lloyd, Dennis. The Idea of Law. Baltimore: Penguin Books, 1964.

Lohfink, Norbert, S.J. Das Hauptgebot. Eine Untersuchung Literarischer Einleitungsfragen zu Dtn. 5-11. ("Analecta Biblica Investigationes Scientifica in Res Biblicas", 20.) Romae: Pontificio Instituto Biblico, 1963.

Löhr, Max. Das Asylwesen im Alten Testament. Halle: Max Niemeyer, 1930.

McCarthy, Dennis, S.J. Treaty and Covenant. A Study in Form in the Ancient Oriental Documents and in the Old Testament. ("Analecta Biblica," 21.) Rome: Pontifical Biblical Institute, 1963.

McKane, W. Prophets and Wise Men. ("Studies in Biblical Theology," 44.) London: SCM Press, 1965.

MacKenzie, R.A.F. Two Forms of Hebrew Law. Toronto: Univ. of Toronto Press, 1961.

Maine, Henry S., Ancient Law. Boston: Beacon Press, 1963.

Mandelkern, Solomon. Veteris Testamenti Concordantiae Hebraicae Atque Chaldaicae. 6th Ed. Jerusalem & Tel-Aviv: Schocken, 1964.

Manley, G. T. The Book of the Law. Studies in the Date of Deuteronomy. London: Tyndale Press, 1957.

Meek, Theophile James. Hebrew Origins. New York: Harper & Row, 1960.

Mendenhall, G. E. Law and Covenant in Israel and the Ancient Near East. Pittsburg, Pa.: Biblical Colloquium, 1955.

Menes, A. Die vorexsilischen Gesetze Israels im zusammenhang seiner kulturgeschichtliche Entwicklung. Giessen: Töpelmann, 1928.

Morris, L. The Biblical Doctrine of Judgment. London: The Tyndale Press, 1960.

Mørstad, Erik. Wenn du der Stimme des Herrn, deines Gottes, gehorchen wirst --Die primären Einführungen zu Dt. 28, 3-6 und 16-19. Oslo: Forlaget Land og Kirke, 1960.

Mowinckel, Sigmund. Le Décaloge. Paris: Alcan, 1927.

Mowinckel, Sigmund. Zur Komposition des Buches Jeremia. Kristiani, 1914.

Mowinckel, Sigmund. The Psalms in Israel's Worship. 2 Vols. New York: Abingdon Press, 1962.

Mowinckel, Sigmund. Religion und Kultus. Göttingen: Vandenhoeck & Ruprecht, 1953.

Mowinckel, Sigmund. Segen und Fluch in Israel's Kult und Psalmdichtung. Vol. V of Psalmenstudien. Amsterdam: Verlag P. Schippers, 1961.

Muilenburg, James. The Way of Israel. Biblical Faith and Ethics. ("Religious Perspectives," Vol. 5.) New York: Harper, 1961.

Nahmani, H.S. Human Rights in the Old Testament. Tel-Aviv, Israel: Joshua Chachik Publishing House, 1964.

Neufeld, Ephraim. The Hittite Laws: Translated into Hebrew and English with Commentary. London: Luzac, 1951.

Newman, Murray L. The People of the Covenant. A Study of Israel From Moses to the Monarchy. New York: Abingdon Press, 1962.

Nicholson, E. W. Deuteronomy and Tradition. Philadelphia: Fortress Press, 1967.

Nielsen, E. Shechem. Copenhagen: G.E.C. Gad, 1955.

Nielsen, E. Die zehn Gebote: eine traditionsgeschichtliche Skizze. Translated by H.-M. Junghans. ("Acta Theologica Danica," Vol. VIII.) Copenhagen: Munksgaard, 1965.

Noth, Martin. Das Buch Josua. 2nd ed. ("Handbuch zum Alten Testament," 7.) Tübingen: Mohr, 1953.

Noth, Martin. Exodus: A Commentary. Translated by J. S. Bowden. ("The Old Testament Library".) London: SCM Press, 1962.

Noth, Martin. The History of Israel. London: A & C Black, 1958.

Noth, Martin. Leviticus. A Commentary. Translated by J. E. Anderson. ("The Old Testament Library".) London: SCM Press, 1965.

Noth, Martin. Überlieferungsgeschichte des Pentateuch. Stuttgart: W. Kohlhammer, 1948.

Noth, Martin. Überlieferungsgeschichtliche Studien, I. Tübingen: Max Niemayer, 1957.

Oesterley, W.O.E. and Robinson, Theodore H. An Introduction to the Books of the Old Testament. Cleveland: The World Publishing Co., 1963.

Oestreicher, Th. Das deuteronomische Grundgesetz. ("Beitr. z. ford. christ. Theol," 27,4.) Gutersloh, 1923.

Pfeiffer, Robert H. Introduction to the Old Testament. New York: Harper & Brothers, 1941.

Plath, S. Furcht Gottes: Der Begriff yr' im Alten Testament. ("Arbeiten zur Theologie," II/2.) Stuttgart: Calwer Verlag, 1963.

Pound, Roscoe. An Introduction to the Philosophy of Law. New Haven: Yale University Press, 1922, 1954.

Pritchard, James B., ed. Ancient Near Eastern Texts Relating to the Old Testament. 2nd ed. Princeton, N.J.: Princeton University Press, 1955.

Rabast, K. Das apodiktische Recht im Deuteronomium und im Heiligkeitsgesetz. Berlin-Hermsdorf: Heimatdienstverlag, 1948.

von Rad, Gerhard. Deuteronomy, A Commentary. Translated by Dorothea Barton. ("Old Testament Library".) Philadelphia: Westminister Press, 1966.

von Rad, Gerhard. Genesis, A Commentary. Translated by John H. Marks. ("The Old Testament Library".) Philadelphia: Westminister Press, 1961.

von Rad, Gerhard. Das Gottesvolk im Deuteronomium. ("Beitrage zur Wissenschaft vom Alten und Neuen Testament," III/11.) Stuttgart: W. Kohlhammer, 1929.

von Rad, Gerhard. Der heilige Krieg im alten Israel. Göttingen: Vandenhoeck & Ruprecht, 1958.

von Rad, Gerhard. Old Testament Theology. Translated by D.M.G. Stalker. Vol. I: The Theology of Israel's Historical Traditions, Vol. II: The Theology of Israel's Prophetic Traditions. Edinburgh and London: Oliver and Boyd, 1962-1965.

von Rad, Gerhard. Studies in Deuteronomy. ("Studies in Biblical Theology", No. 9.) London: SCM Press, 1953.

Rendtorff, Rolf. Die Gesetze in der Priesterschrift: Eine gattungsgeschichtliche Untersuchung. ("Forschung zur Religion und Literatur des Alten und Neuen Testaments," 62.) Göttingen: Vandenhoeck und Ruprecht, 1954.

XUM

Reventlow, H. Graf. Das Amt des Propheten bei Amos. ("Forschungen zur Religion und Literatur des Alten und Neuen Testaments," 80.) Göttingen: Vandenhoeck & Ruprecht, 1962.

Reventlow, H. Graf. Gebot und Predigt im Dekalog. Gütersloh: Gütersloher Verlaghaus Gerd Mohn, 1962.

Reventlow, H. Graf. Das Heligkeitsgesetz, formgeschichtlich untersucht. ("Wissenschaftlichen Monographien zum Alten und Neuen Testament," 6.) Neukirchen: Verlag der Buchhandlung des Erziehungsvereins, 1961.

Richter, W. Die Bearbeitungen des "Retterbuchs" in der deuteronomischen Epoche. ("Bonner Biblische Beiträge," 21.) Bonn: Peter Hanstein Verlag, 1964.

Robertson, J. The Early Religion of Israel. New York: Anson D.F. Randolph, 1892.

Robinson, D.W.B. Josiah's Reform and the Book of the Law. London: Tyndale Press, 1951.

Robinson, H. Wheeler. Corporate Personality in Ancient Israel. Philadelphia: Fortress Press, 1964.

Robinson, H. Wheeler. Inspiration and Revelation in the Old Testament. Oxford: Clarendon Press, 1946.

Rowley, H. H. The Biblical Doctrine of Election. London: Lutterworth Press, 1953.

Sauber, K. R. Die Abstraction im israelitischen Recht. Göttingen: Vandenhoeck & Ruprecht, 1953.

Scharbert, J. Solidarität in Segen und Fluch im Alten Testament und in seiner Umwelt, I. Väterfluch und Vätersegen. ("Bonner Biblische Beiträge," 14.) Bonn: Hanstein, 1958.

Schmid, Rudolf. Das Bundesopfer in Israel. Wesen, Ursprung und Bedeutung der altestamentlichen Schelamim. ("Studien zum Alten und Neuen Testament," IX.) München: Kösel-Verlag, 1964.

Schmitt, G. Der Landtag von Sichem. ("Arbeiten zur Theologie", I/15.) Stuttgart: Calwer Verlag, 1964.

Schrey, H. H., Walz, H. H., and Whitehouse, W. A. The Biblical Doctrine of Justice and Law. ("Ecumenical Biblical Studies," No. 3.) London: SCM Press, 1955.

XUM

Sellin, E. Introduction to the Old Testament. New York: George H. Doran Co., 1923.

Shaw, J. M. "The Concept of 'The People of God' in Recent Biblical Research." Unpublished Th.D. dissertation, Princeton Theological Seminary, 1958.

Simpson, C. The Early Traditions of Israel. A Critical Analysis of the Predeuteronomic Narrative of the Hexateuch. Oxford: Basil Blackwell, 1948.

Smend, Rudolf, Jr. Die Bundesformel. ("Theologische Studien," 68.) Zurich: Evz-Verlag, 1963.

Smend, Rudolf, Jr. Yahweh War and Tribal Confederation. Translated by Max Gray Rogers. New York: Abingdon Press, 1970.

Smith, C. R. The Bible Doctrine of Society in its Historical Evolution. Edinburg: T & T Clark, 1920.

Smith, George Adam. The Book of Deuteronomy in the Revised Version with Introduction and Notes. ("The Cambridge Bible for Schools and Colleges".) Cambridge: Cambridge University Press, 1918.

Smith, Henry Preserved. A Critical and Exegetical Commentary on the Books of Samuel. ("International Critical Commentary," v. 9.) New York: Charles Scribner's Sons, 1929.

Smith, J.M.P. The Origin and History of Hebrew Law. Chicago: Univ. Press, 1931.

Snaith, N.H. The Distinctive Ideas of the Old Testament. Philadelphia: Westminister Press, 1946.

Stade, Bernhard. Geschichte des Volkes Israel. Gerlin: G. Grote, 1887-8.

Staerk, W. Das Deuteronomium, sein Inhalt und seine literarische Form: eine kritische Studie. Leipzig: J. C. Hinrichs, 1894.

Stamm, J. J. and Andrew, M. E. The Ten Commandments in Recent Research. Naperville (Ill.): Allenson, 1967.

Steurnagel, Carl. Deuteronomium und Josua. ("Handkommentar zum alten Testament".) Göttingen: Vandenhoeck und Ruprecht, 1900.

Steurnagel, C. Die Enstehung des deuteronomischen Gesetzes. Halle; J. Kraus, 1896.

Steurnagel, C. Der Rahmen des Deuteronomiums. Halle: J. Kraus, 1894.

Steurnagel, C. Übersetzung und Erklärung der Bücher Deuteronomium und Josua und allgemeine Einleitung in den Hexateuch. Göttingen: Vandenhoeck & Ruprecht, 1900.

Tucker, Gene Milton. "Contracts in the Old Testament: A Form-Critical Investigation." Unpublished Ph.D. dissertation, Yale University, 1963.

de Vaux, Roland. Ancient Israel, Its Life and Institutions. London: Denton, Longman & Todd, 1961.

Vriezen, Th. C. Die Erwählung Israels nach dem Alten Testament. ("Abhandlungen zur Theologie des Alten und Neuen Testaments," 24.) Zurich: Zwingli-Verlag, 1953.

Vriezen, Th. C. An Outline of Old Testament Theology. Newton, Mass.: Charles T. Branford Co., 1958.

von Waldow, E. Der traditiongeschichtliche Hintergrund der prophetischen Gerichtsreden. ("Beihefte zur Zeitschrift für die alttestamentliche Wissenschaft," 85.) Berlin: Verlag Alfred Töpelmann, 1963.

Weiser, Artur. The Old Testament: Its Formation and Development. New York: Association Press, 1963.

Weiser, Artur. The Psalms, A Commentary. Translated by Herbert Hartwell. London: SCM Press, 1962.

Welch, Adam C. The Code of Deuteronomy, A New Theory of its Origin. London: James Clarke, 1924.

Welch, A. C. Deuteronomy: The Framework to the Code. London: Oxford, 1932.

Wellhausen, Julius. Prolegomena to the History of Ancient Israel. Cleveland: The World Publishing Co., 1961.

Westermann, Claus. Der Aufbau des Buches Hiob. Tübingen: J.C.B. Mohr (Paul Siebeck), 1956.

Westermann, Claus. Basic Forms of Prophetic Speech. Translated by Hugh Clayton White. Philadelphia: Westminister Press, 1967.

Westermann, Claus. The Praise of God in the Psalms. Translated by Keith R. Crim. Richmond: John Knox Press, 1965.

De Wette, W.M.L. Disertatio Critica-exegetica, qua Deuteronomium a Prioribus Pentateuchi Libris Diversum Alius Cuiusdam Recentioris Auctoris Opus Esse Monstratus, 1805.

Wickings, H. F. The Covenant People of God. London: Independent Press, 1956.

Wijngaards, J.N.M. The Formulas of the Deuteronomic Creed (Dt 6/20-23 : 26/5-9). ("Excerpta ex Dissertatione ad Lauream in Facultate Theologica Pontificiae Universitatis Gregorianae".) Leiden: E. J. Brill, 1963.

Wildberger, Haus. Jahwes Eigentumsvolk. eine Studie zur Traditionsgeschichte und Theologie des Erwählungsgedankens. ("Abhandlungen zur Theologie des Alten und Neuen Testaments," 37.) Zurich: Zwingli Verlag, 1960.

Wilson, J. A., Speiser, E.-A., Güterbock, H.G., Mendelsohn, I., Ingalls, D. H. H., & Bodde, D. Authority and Law in the Ancient Orient. ("Journal of the American Oriental Society Supplement," 17.) Baltimore: American Oriental Society, 1954.

Wolff, H. W. Dodekapropheten I : Hosea. ("Biblischer Kommentar: Altes Testament.") Neukirchen: Verlag des Erziehungsvereins, 1961.

Wright, G. Ernest. God Who Acts: Biblical Theology. ("Studies in Biblical Theology," 8.) London: SCM Press, 1952.

Wright, G. Ernest. The Old Testament and Theology. New York: Harper and Row, 1969.

Zimmerli, Walther. The Law and the Prophets. A Study of the Meaning of the Old Testament. Translated by R. E. Clements. Oxford: Basil Blackwell, 1965.

Articles

Albright, W. F. "The Hebrew Expression for 'Making a Covenant' in Pre-Israelite Documents", The Bulletin of American Schools of Oriental Research, 121 (1951), 21 ss.

Albright, W. F. "Some Remarks on the Song of Moses in Deuteronomy XXXII," Vetus Testamentum, 9 (1959), 339-346.

Alt, Albrecht. "The Formation of the Israelite State in Palestine," Essays on Old Testament History and Religion. Translated by R. W. Wilson. Oxford: Basil Blackwell, 1966.

XUM

Alt, Albrecht. "Gedanken über das Königtum Jahwes," Kleine Schriften zur Geschichte des Volkes Israels. Vol. I. Munich: Ch. Beck'sche Verlagsbuchhandlung, 1953-1959.

Alt, Albrecht, "Das Gottesurteil auf dem Karmel," Kleine Schriften zur Geschichte des Volkes Israels. Vol. II. Munich: Ch. Beck'sche Verlagsbuchhandlung, 1953-1959.

Alt, Albrecht, "The Monarchy in Israel and Judah," Essays on Old Testament History and Religion. Translated by R. A. Wilson. Oxford: Basil Blackwell, 1966.

Alt, Albrecht. "The Origins of Israelite Law," Essays on Old Testament History and Religion. Translated by R. A. Wilson. Oxford: Basil Blackwell, 1966.

Alt, Albrecht. "The Settlement of the Israelites in Palestine," Essays on Old Testament History and Religion. Translated by R. A. Wilson. Oxford: Basil Blackwell, 1966.

Alt, Albrecht. "Der Stadtstaat Samaria," Kleine Schriften zur Geschichte des Volkes Israels. Vol. III. Munich: Ch. Beck'sche Verlagsbuchhandlung, 1953-1959.

Alt, Albrecht. "Zur Talionsformel," Kleine Schriften zur Geschichte des Volkes Israels. Vol. I. Munich: Ch. Beck'sche Verlagsbuchhandlung, 1953-1959.

Alt, Albrecht. "Das Verbot des Diebstahls im Dekalog," Kleine Schriften zur Geschichte des Volkes Israels. Vol. I. Munich: Ch. Beck'sche Verlagsbuchhandlung, 1953-1959.

Alt, Albrecht. "Die Wallfahrt von Sichem nach Bethel," Kleine Schriften zur Geschichte des Volkes Israels. Vol. I. Munich: Ch. Beck'sche Verlagsbuchhandlung, 1953-1959.

Bauer, J. B. "Könige und Priester, ein heiliges Volk (Ex. 19, 6)," Biblische Zeitschrift, NF 2/2 (1958), 283-286.

Begrich, Joachim. "Berit," Gesammelte Studien zum Alten Testament. ("Theologische Bücheri," 21.) München: Chr. Kaiser Verlag, 1964.

Begrich, Joachim. "Die Priesterliche Tora," Werden und Wesen des Alten Testaments. ("Beihefte zur Zeitschrift für de alttestamentliche Wissenschaft," 66.) Berlin: A. Töpelman, 1936.

Berry, G. R. "The Code Found in the Temple," Journal of Biblical Literature, 39 (1920), 44-52.

XUM

Berry, G. R. "The Date of Deuteronomy," Journal of Biblical Literature, 59 (1940), 133-139.

Beyerlin, W. "Gattung und Herkfunft des Rahmens im Richterbuch," Tradition und Situation: Studien zur alttestamentlichen Prophetie Artur Weiser zum 70. Geburtstag am 18. 11. 1963 dargebracht von Kollegen, Freunden und Schülern. Gottingen: Vandenhoeck & Ruprecht, 1963.

Beyerlin, Walter. "Die Paränese im Bundesbuch und ihre Herkunft," Gottes Wort und Gottes Land. Edited by H. Graf Reventlow. Göttingen: Vandenhoeck & Ruprecht, 1965.

Blair, P. Edward. "An Appeal to Remembrance. The Memory Motif in Deuteronomy," Interpretation, XV (1961), 41-47.

Beaucamp, E., O.F.M. "La Justice, de Yahvé et l'Économie de l'Alliance." Studii Biblici Franciscani Liber Annus, XI (1960/61), 5-55.

Bloom, Alfred. "Human Rights in Israel's Thought. A Study of Old Testament Doctrine," Interpretation, VIII (1954), 422-432.

Bollier, John A. "The Righteousness of God," Interpretation, VIII (1954), 404-413.

Brekelmans, C. "Le Herem chez les Prophètes du Royaume du Nord et dans le Dt." Sacra Pagina Miscellanea Biblica Congressus Internationalis Catholici de Re Biblica. Edited by J. Coppens, A. Descamps, E. Massaux. Paris: Librairie Lecoffre, 1959.

Brueggemann, W. "Amos 4:4-13 and Israel's Covenant Worship," Vetus Testamentum, 15 (1965), pp. 1-15.

Bückers, H. "Kollectiv- und- individualvergeltung im A.T.," Theologie und Glaube, 25 (1933), 273-287.

Budde, K. "Das Deuteronomium und die Reform König Josias," Zeitschrift für die alttestamentliche Wissenschaft, 3 (1926), 177-224.

Caspari, W. "Heimat und soziale Wirkung des alttestamentliche Bundesbuches," Zeitschrift der Deutschen Morgenländischen Gesellschaft, 8 (1929), 97-120.

Caspari, W. "Das Priesterlich Königsreich," Theologische Blätter, 8 (1929), 105-110.

Causse, A. "La Transformation de la Notion d'Alliance et la Rationalisation de l'Ancienne Coutume dans la Réform Deutéronomique," Revue d'Histoire et de Philosophie Religiuses, 13 (1933), 1-29.

XUM

Cazelles, H. "A Propos de Quelques Textes Difficiles Rélatifs à la Justice de Dieu dans l'Ancien Testament," Revue Biblique, 2 (1951), 169-88.

Clements, R. E. "Deuteronomy and the Jerusalem Cult Tradition," Vetus Testamentum, 15 (1965), pp. 300-312.

Cross, F. M. and Freedman, D. N. "Josiah's Revolt Against Assyria," Journal of Near Eastern Studies, 12 (1953), pp. 56-58.

Crown, A. D. "Aposiopesis in the Old Testament and the Hebrew Conditional Oath," Abr-Nahrain. ("An Annual published by the Department of Semitic Studies, University of Melbourne, in association with the Department of Semitic Studies University of Sydney," Vol. 4.) Edited by J. Bowman. Leiden: E. J. Brill, 1965.

Deissler, Alfons. "Die Wesentliche Bundesweisung in der Mosaischen und Frühprophetischen Gottesbotschaft," Gott in Welt. Festgabe für K. Rahner, Vol. 1. Edited by Johannes Baptist Metz. Frieburg: Herder, 1964.

Danell, G. A. "The Idea of God's People in the Bible," The Root of the Vine : Essays in Biblical Theology. Edited by A. Friedrichsen. Westminister: Dacre Pres, 1953.

Danielou, J. "La Jalousie de Dieu," Dieu Vivant, 16 (1950), 61-73.

Daube, David. "Direct and Indirect Causation in Biblical Law," Vetus Testamentum, XI (1961), 246-269.

Daube, David. "A Note on A Jewish Dietary Law Ex 23, 19; 34, 36; Deut. 14, 21,") Journal of Theological Studies, 37 (1936), 289-291.

Daube, David. "Text and Interpretation in Roman and Jewish Law," Jewish Journal of Sociology, 3 (1961), 3-28.

Dumermuth, Fritz. "Zur deuteronomischen Kulttheologie und ihren Voraussetzungen," Zeitschrift für die alttestamentliche Wissenschaft, 70 (1958), 59-98.

Eberharter, A. "Besitzen wir in Ex. 23 und 34 zwei Rezencionen eines zweiten Dekalogs und in welchen Verhältnis stehen sie zueinander?," Biblische Zeitschrift, 20 (1932), 156-162.

Eichrodt, Walther. "Bund und Gesetz," Gottes Wort und Gottes Land. Edited by H. Graf Reventlow. Göttingen: Vandenhoeck & Ruprecht, 1965.

XUM

Eichrodt, Walther. "The Law and the Gospel. The Meaning of the Ten Commandments in Israel and For Us," Interpretation, XI/1 (1957), 23-40.

Eichrodt, Walther. "Heilserfahrung und Zeitverstandnis im Alten Testament," Theologishe Zeitschrift, 12 (1956), 103-125.

Eissfeldt, Otto. "Die älteste Erzählung vom Sinaibund," Zeitschrift für die alttestamentliche Wissenschaft, 73 (1961), 137-146.

Eissfeldt, Otto. "'Mein Gott' im A.T.," Zeitschrift für die alttestamentliche Wissenschaft, 61/1-4 (1949), 3-16.

Elhorst, H. J. "Eine verkannte Zauberhandlung (Dt. 21:1-9)," Zeitschrift für die alttestamentliche Wissenschaft, 38/9 (1921), 58-67.

Emerton, J. A. "Priests and Levites in Deuteronomy. An Examination of Dr. G. E. Wright's Theory," Vetus Testamentum, 12 (1962), 129-138.

Falk, Z. W. "Collective Responsibility in Bible and Aggada," Tarbiz, 30 (1960), 16-20.

Fensham, F. Ch. "Clauses of Protection in Hittite Vassal-Treaties and the Old Testament," Vetus Testamentum, 13 (1963), 133-143.

Fensham, F. C. "Malediction and Benediction in Ancient Near Eastern Vassal-Treaties and the Old Testament," Zeitschrift für die alttestamentliche Wissenschaft, 74 (1962), 1-9.

Fohrer, Georg. "'Priesterliches Königtum', Ex. 19, 6," Theologische Zeitschrift, 19 (1963), 359-362.

Fohrer, Georg. "Das sog. apodiktisch formulierte Recht und der Dekalog," Kerygma und Dogma, 11 (1965), 49-74.

Freedman, D. N. "Divine Commitment and Human Obligation. The Covenant Theme," Interpretation, 18 (1964), 419-431.

Freedman, D. N. "The Law and the Prophets," Congress Volume, Bonn 1962. ("Supplements to Vetus Testamentum," Vol. IX). Leiden: E. J. Brill, 1963.

Le Frois, Bernard J., SVD. "Semitic Totality Thinking," The Catholic Biblical Quarterly, XVII/2 (1955), 195-203.

Galling, K. "Das Gemeindegesetz in Deuteronomium 23," Festschrift für Alfred Bertholet zum 80. Geburtstag gewindet von Kollegen und Freunden. Edited by Walter Baumgartner, Otto Eissfeldt, Karl Elliger, Leonhard Rost. Tübingen: J.C.B. Mohr, 1950.

XUM

Galling, Kurt. "Das Königsgesetz im Deuteronomium," Theologische Literaturzeitung, 3 (1951), 133-138.

Gemser, B. "The Importance of the Motive Clause in Old Testament Law," Congress Volume, Copenhagen. ("Supplements to Vetus Testamentum," Vol. 1.) Leiden: Brill, 1953.

Gerstenberger, Erhard. "Covenant and Commandment," Journal of Biblical Literature, 84/1 (1965), 38-51.

Gese, H. "Beobachtungen zum stil alttestamentlicher Rechtsätze," Theologishe Literaturzeitung, 85 (1960), 147-150.

Giblin, Charles H., SJ. "Structural Patterns in Jos. 24, 1-25," The Catholic Biblical Quarterly, XXVI/1 (1964), 50-69.

Ginsberg, H. L. "The Conclusion of HAʾAZINU; Deut 32, 34-43," Tarbiz, XXIV/1 (1954), 1-3.

Gitlin, Emmanuel. "The Tithe in Deuteronomy," Religion in Life, 32 (1962/63), 574-585.

Gordon, C. H. "A New Akkadian Parallel to Deut 25:11-12," Journal of the Palestine Oriental Society, 15 (1935), 29-34.

Gottwald, Norman K. "'Holy War' in Deuteronomy: Analysis and Critique," The Review and Expositor, LXI/4 (1964), 296-310.

Greenberg, Moshe. "Hebrew Segulla; Akkadian sikiltu," Journal of the American Oriental Society, 71 (1951), pp. 172-174.

Gressmann, H. "Josia und das Deuteronomium: ein kritisches Referat," Zeitschrift für die alttestamentliche Wissenschaft, 42 (1924), 313-337.

Grunneweg, A.H.J. "Sinaibund und Davidsbund," Vetus Testamentum, 10 (1960), 335-341.

Gurewicz, S.B. "The Deuteronomic Provisions for Exemption from Military Service," Australian Biblical Review, VI (1958), 111-121.

Gustavs, A. "Parallelen zu alttestamentlichen Gesetzesbestimmungen in Akkad. Weisheitsliteratur," Zeitschrift für die alttestamentliche Wissenschaft, 7 (1930), 231f.

Haase, Richard. "Zur Anzeigepflicht des Finders nach Hethitischem Recht," Die Welt des Orients, (1957), 378-381.

Harrelson, W. "Law in the O.T." The Interpreter's Dictionary of the Bible. Vol. 3. Edited by G. A. Buttrick. New York: Abingdon Press, 1962.

XUM

Harvey, Dorothea Ward. "'Rejoice Not O Israel'," Israel's Prophetic Heritage: Essays in Honor of James Muilenburg. Edited by B. W. Anderson and W. Harrelson. New York: Harper & Bros. 1962.

Hehn, J. "Rationalismus und Universalismus, Kollektivismus und Individualismus in der israelitische Religion," Bonner Zeitschrift, 2 (1925), 213-232.

Hellbardt, H. "Was heisst: Ich bin der herr, dein Gott, der dich aus Ägyptenland, aus dem Diensthause, geführt hat?" Evangelische Theologie, 1936, 490-500.

Hempel, J. "Faktum und Gesetz im alttestamentliche Geschichtsdenken," Theologische Literaturzeitung, 85 (1960), 823-828.

Hempel, J. "Die israelitischen Anschauungen von Segen und Fluch im Lichte altorientalischer Parallelen," Zeitschrift der Deutschen Morgenländischen Gesellschaft, 79 (1925), 20-110.

Hentschke, R. "Gesetz und Eschatologie in der Verkündigung der Propheten," Zeitschrift für Evangelische Ethik, 4 (1960), 46-56.

Hesse, Franz. "Kerygma oder geschichtliche Wirklichkeit?" Zeitschrift für Theologie und Kirche, 57 (1960), 17-26.

Hölscher, G. "Komposition und Ursprung des Deuteronomiums," Zeitschrift für die alttestamentliche Wissenschaft, 40 (1922), 161-255.

Horst, Friedrich. "Der Eid im AT," Evangelische Theologie, 17 (1957), 366-384.

Horst, Friedrich. "Das Privilegerecht Jahwes," Gottes Recht: Gesammelte Studien zum Recht im Alten Testament. ("Theologishe Bücherei," 12). Munich: Chr. Kaiser Verlag, 1961.

Horst, Friedrich. "Recht und Religion im bereich des Alten Testaments," Evangelische Theologie, 16/2-3 (1956), 49-75.

L'Hour, J. "Une Législation Criminelle dans le Deutéronome," Biblica, 44/1 (1963), 1-28.

Hulst, A. R. "Der Name 'Israel' im Deuteronomium," Oudtestamentishe Studien, IX. Edited by P.A.H. De Boer. Leiden: Brill, 1951.

Hyatt, J. P. "The God of Love in the Old Testament," To Do and to Teach: Essays in Honor of Charles Lynn Pyatt. Lexington: College of the Bible, 1953.

Hyatt, J. P. "Jeremiah and Deuteronomy," Journal of Near Eastern Studies, I (1942), 156-173.

Jepsen, Alfred. "Berith. Ein Beitrag zur Theologie der Exilzeit," Verbannung und Heimkehr; Festschrift W. Rudolf. Edited by Arnulf Kuschke, Tübingen: J.C.B. Mohr (Paul Seibeck), 1961.

Jepsen, Alfred, "Die Reform des Josia," Festschrift Friedrich Baumgärtel zum 70. Geburtstag 14, Januar, 1958 Gewindet von den Mitarbeiten am Kommentar zum Alten Testament. Edited by Johannes Herrmann. ("Erlanger Forschungen, A. :10.) Erlangen: Universitätsbibliothek, 1959.

Johnson, A. R. "Hesed and Hasid," Interpretationes ad Vetus Testamentum Pertinentes Sigmundo Mowinckel Septuagenario Missae. Norsk Teologisk Tidsskrift. Vol. 56. Oslo: Forlaget Land og Kirke, 1955.

Johnston, L. "Recent Views on Deuteronomy and the Unity of Sanctuary," Scripture, IV/12 (1951).

Junker, Hub. "Das allgemeine Priestertum des Volkes Israel nach Ex 19, 6," Trierer Theologische Zeitschrift, 56 (1947), 10ff.

Junker, Hub. "Segen als heilsgeschichliches Motivwort im AT," Miscellanea Biblica Congressus Internationalis Catholici de Re Biblica. Paris: Gembloux, 1959.

Keszler, W. "Die literarische, historische, und theologische Problematik des Dekalogs," Vetus Testamentum, 7 (1957), 1ff.

Kilian, R. "Apodiktisches und kasuistisches Recht im Licht ägyptischer Analogien (Äctungs-und Weisheitstexte)", Biblische Zeitschrift, 7 (1963), 185-202.

Koch, Klaus. "Das Eigenart der priesterschriftlichen Sinaigestzgebung," Zeitschrift für Theologie und Kirche, 55 (1958), 36-51.

Koch, Klaus. "Zur Geschichte der Erwählungsvorstellung in Israel," Zeitschrift für die alttestamentliche Wissenschaft, 67 (1955), 205-226.

Koch, Klaus. "Gibt es ein Vergeltungsdogma im A.T.?" Zeitschrift für Theologie und Kirche, 52 (1955), 1-42.

Koch, Klaus. Der Spruch 'Sein Blut bleibe auf seinem Haupt' und die israelitischen Auffassung von vergossenem Blut," Vetus Testamentum, XII (1962), 396ff.

Köhler, Ludwig. "Justice in the Gate," Hebrew Man. London: SCM Press, 1956.

XUM

Kraus, Hans-Joachim. "Gesetz und Geschichte," Evangelische Theologie, 11/9 (1951/52), 415-427.

Kraus, Hans-Joachim. "Die prophetische Botschaft gegen das soziale Unrecht Israels," Evangelische Theologie, 15 (1955), 295-307.

Kremers, Heinz. "Die Stellung des Elterngebots im Dekalog. Eine Voruntersuchung zum Problem Elterngebots und Elternrecht," Evangelische Theologie, 21 (1961), 145-161.

Kuyper, Lester J. "The Book of Deuteronomy," Interpretation, VI/3 (1952), 321-340.

Langford, Norman F. "Gospel and Duty, A Study of the Unity of Biblical Ethics," Interpretation, V/3 (1951), 268-84.

Lattey, Cuthbert. "Vicarious Solidarity in the Old Testament," Vetus Testamentum, I (1951), 267-274.

Lewy, I. "Dating of Covenant Code Sections on Humaneness and Righteousness," Vetus Testamentum, 7 (1957), 322-326.

Lewy. I. "The Puzzle of Dt. 27: Blessings Announced, but Curses Noted," Vetus Testamentum, 12 (1962), 207-210.

Lohfink, Norbert, S.J. "Auslegung deuteronomischer Texte. I. Die Verkündigung des Hauptgebots (Dt. 10, 12 - 11, 17)," Bibel und Leben, 5/1 (1964), 24-35.

Lohfink, Norbert, S.J. "Auslegung deuteronomischer Texte, II. Ein Kommentar zum Hauptgebot des Dekalogs (Dt. 6, 4-25)," Bibel und Leben, 5/2 (1964), 84-94.

Lohfink, Norbert, S.J. "Auslegung deuteronomischer Texte, III. Das Hauptgebot in der Situation des Wohlstandes (Dt. 8, 1-20)," Bibel und Leben, 5/3 (1964), 164-172.

Lohfink, Norbert, S.J. "Das Hauptgebot im Alten Testament," Geist und Leben, 36/4 (1963), 271-281.

Lohfink, Norbert, S.J. "Die Wandlung des Bundesbegriffs im Buch Deuteronomium," Gott in Welt. Festgabe für K. Rahner, Vol. I. Edited by Johannes Baptist Metz. Frieburg: Herder, 1964.

Maag, Victor. "Erwägungen zur deuteronomischen Kultzentralisation," Vetus Testamentum, 6 (1956), 10-18.

McCarthy, Dennis, S.J. "Three Covenants in Genesis," The Catholic Biblical Quarterly, XXVI/2 (1964), 179-189.

McKeating, Henry. "Vengeance is Mine. A Study of the Pursuit of Vengeance in the Old Testament," The Expository Times, 74/8 (1963), 239-245.

MacKenzie, R.A.F. "The Formal Aspect of Ancient Near Eastern Law," The Seed of Wisdom. Edited by W. S. McCullough. Toronto: University of Toronto Press, 1964.

Malamat, A. "Doctrine of Causality in Hittite and Biblical Historiography," Vetus Testamentum, 5 (1955), 1-12.

Martin-Achard, Robert. "Israel, Peuple Sacerdotal," Verbum Caro, 71-72 (1964), 11-28.

Martin-Achard, Robert. "La Signification Theologique de l'Élection d'Israël," Theologische Zeitschrift, 16 (1960), 333-341.

May, H. G. "Individual Responsibility and Retribution," The Hebrew Union College Annual. Vol. 32. Cincinnati: Hebrew Union College, 1961.

Meek, Theophile James. "The Translation of Dt. 11:16," Journal of Biblical Literature, LXVII (1948), 235-236.

Mendenhall, G. E. "Covenant," The Interpreter's Dictionary of the Bible. Vol. I. Edited by G. A. Buttrick. New York: Abingdon Press, 1962.

Mendenhall, G. E. "Election," The Interpreter's Dictionary of the Bible. Vol. II. Edited by G. A. Buttrick. New York: Abingdon Press, 1962.

Mendenhall, G. E. "The Hebrew Conquest of Palestine," The Biblical Archaeologist, 25/3 (1962), 66-87.

Mendenhall, G. E. "The Relation of the Individual to Political Society in Ancient Israel," Biblical Studies in Memory of H. C. Alleman. Edited by J. M. Myers, O. Reimherr, and H. N. Bream. ("Gettysburg Theological Studies".) Locust Valley, N. Y.: J. J. Augustin, 1960.

Mendelsohn, I. "Authority and Law in Canaan-Israel," The Journal of the American Oriental Society, 74/3 (1954) 25-33.

Mercer, S.A.B. "New Evidence on the Origin of Israel's Laws," Anglican Theological Review, 4 (1921-22), 314-324.

Minette de Tillesse, G. "Sections 'tu' et Sections 'vous' dans le Deuteronome," Vetus Testamentum, 12 (1962), 29-87.

XUM

Moran, William L. S.J. "The Ancient Near Eastern Background of the Love of God in Deuteronomy," The Catholic Biblical Quarterly, XXV/1 (1963), 77-87.

Moran, William L. S.J. "The Ends of the Unholy War and the Anti-Exodus," Biblica, 44/3 (1963), 333-342.

Moran, William L., S.J. "'A Kingdom of Priests'," The Bible in Current Catholic Thought. Edited by J. L. McKenzie. New York: Herder and Herder, 1962.

Moran, William L., S.J. "Some Remarks on the Song of Moses," Biblica, 43/3 (1962), 317-327.

Morris, Leon. "The Wrath of God," The Expository Times, LXIII (1952), 142-145.

Mørstad, Erik. "Overveielser til Dt. 28," Norsk Teologisk Tidsskrift. Vol. 60. Oslo: Forlaget Land og Kirke, 1959.

Muilenburg, James. "The Biblical View of Time," The Harvard Theological Review, XIV/4 (1961), 225-252.

Muilenburg, James. "The Form and Structure of the Covenantal Formulations," Vetus Testamentum, 9 (1959), 347-365.

Muilenburg, James. "The History of the Religion of Israel," The Interpreters Bible. Vol. I. Edited by G. A. Buttrick. Nashville: Abingdon-Cokesbury, 1952.

Muilenburg, James. "The Linguistic and Rhetorical Usages of the Particle *ki* in the Old Testament," The Hebrew Union College Annual. Vol. XXXII. Cincinnati: Hebrew Union College, 1961.

Muilenburg, James. "Modern Issues in Biblical Studies: The Gains of Form Criticism in Old Testament Studies," Expository Times, LXXI (1960), 229-233.

Muilenburg, James. "A Study in Hebrew Rhetoric," Congress Volume, Copenhagen. ("Supplement to Vetus Testamentum," I). Leiden: Brill, 1953.

Myers, Jacob M. "The Requisites for Response. On the Theology of Deuteronomy," Interpretation, XV (1961), 14-31.

Napier, B.D. "Community under Law," Interpretation, 7 (1953), 404-417.

Newell, Samuel W. "Many Members. The Relation of the Individual to the People of God," Interpretation, Oct (1951), 413-26.

XUM

Newman, Murray L. "The Prophetic Call of Samuel," Israel's Prophetic Heritage: Essays in Honor of James Muilenburg. Edited by B. W. Anderson and W. Harrelson. New York: Harper & Bros. 1962.

Nicholson, E. W. "The Centralisation of the Cult in Deuteronomy," Vetus Testamentum, 13 (1963), 380-389.

North, R. "Yad in the Shemitta-Law," Vetus Testamentum, 4 (1954), 196-199.

Noth, Martin. "The Background of Judges 17-18," Israel's Prophetic Heritage: Essays in Honor of James Muilenburg. Edited by B. W. Anderson and W. Harrelson. New York: Harper & Bros. 1962.

Noth, Martin. "'For All Who Rely on Works of the Law Are Under a Curse'," The Laws in the Pentateuch and Other Essays. Edinburgh & London: Oliver & Boyd, 1966.

Noth, Martin. "The Laws in the Pentateuch: Their Assumptions and Meaning," The Laws in the Pentateuch and Other Essays. Edinburgh & London: Oliver & Boyd, 1966.

Noth, Martin. "Office and Vocation in the Old Testament," The Laws in the Pentateuch and Other Essays. Edinburgh & London: Oliver & Boyd, 1966.

Noth, Martin. "Old Testament Covenant-Making in the Light of a Text from Mari," The Laws in the Pentateuch and Other Essays. Edinburgh & London: Oliver & Boyd, 1966.

Owens, J. J. "Law and Love in Deuteronomy," The Review and Expositor, LXI/4 (1964), 274-283.

Porter, J. R. "The Legal Aspects of the Concept of 'Corporate Personality' in the Old Testament," Vetus Testamentum, XV (1965), pp. 361-380.

Preiser, W. "Vergeltung und Sühne im altisraelitischen Strafrecht," Festschrift für Eberhard Schmid. Göttingen: Vandenhoeck & Ruprecht, 1961.

Price, I. M. "The Oath in Court Procedure in Early Babylonia and the Old Testament," Journal of the American Oriental Society, 49 (1929), 22-29.

von Rad, Gerhard. "Ancient Word and Living Word. The Preaching of Deuteronomy and our Preaching," Interpretation, XV (1961), 3-13.

XUM

von Rad, Gerhard. "Deuteronomy," The Interpreter's Dictionary of the Bible. Vol. I. Edited by G. A. Buttrick. New York: Abingdon Press, 1962.

von Rad, Gerhard. "Die Falschen Propheten," Zeitschrift für die alttestamentliche Wissenschaft 51 (1933), pp. 109ff.

von Rad, Gerhard. "The Form-Critical Problem of the Hexateuch," The Problem of the Hexateuch and Other Essays. Translated by E. W. Trueman Dicken. Edinburgh & London: Oliver & Boyd, 1966.

von Rad, Gerhard. "Gesetz und Evangelium im Alten Testament," Theologische Blätter, 16 (1937), 41-47.

von Rad, Gerhard. "The Promised Land and Yahweh's Land in the Hexateuch," The Problem of the Hexateuch and Other Essays. Translated by E. W. Trueman Dicken. Edinburgh & London: Oliver & Boyd, 1966.

von Rad, Gerhard. "There Remains Still a Rest for the People of God: An Investigation of a Biblical Conception," The Problem of the Hexateuch and Other Essays. Translated by E. W. Trueman Dicken. Edinburgh & London: Oliver & Boyd, 1966.

von Rad, Gerhard. "'Righteousness' and 'Life' in the Cultic Language of the Psalms," The Problem of the Hexateuch and Other Essays. Translated by E. W. Trueman Dicken. Edinburgh & London: Oliver & Boyd, 1966.

Rendtorff, Rolf. "Die Offenbarungsvorstellungen in alten Israel," Offenbarung als Geschichte. ("Beihefte Kerygma & Dogma," I.) Göttingen: Vandenhoeck & Ruprecht, 1961.

Reventlow, H. Graf. Das Amt des Mazkir. Zur Rechtsstruktur des öffentlichen Lebens in Israel," Theologische Zeitschrift, 15 (1959), 161-175.

Reventlow, H. Graf. "Gebotskern und Entfaltungsstufen in Deuteronomium 12," Gottes Wort und Gottes Land. Edited by H. Graf Reventlow. Göttingen: Vandenhoeck & Ruprecht, 1965.

Reventlow, H. Graf. "'Sein Blut komme über sein Haupt'," Vetus Testamentum, 10 (1960), 311-327.

Ringgren, H. "Enthronement Festival or Covenant Renewal?," Biblical Research, 7 (1962), 45-48.

Roberge, M. "Théologie de l'Alliance Sinaïtique dans le Dt," Revue de l'Université d'Ottawa, 34 (1964), 100-119, 164-199.

XUM

Rost, Leonhard. "Die Bezeichnungen für Land und Volk im Alten Testament," Das kleine Credo und andere Studien zum Alten Testament. Heidelberg: Quelle & Meyer, 1965.

Rost, Leonhard. "Das kleine geschichtliche Credo," Das kleine Credo und andere Studien zum Alten Testament. Heidelberg: Quelle & Meyer, 1965.

Rowley, H. H. "Individual and Community in the Old Testament," Theology Today, 12 (1955), 491-510.

Schedl, Claus, CSSR. "Bund und Erwählung. Das Mysterium Israels in geschichtstheologischer Schau," Zeitschrift für Theologie und kirche, 80/4 (1958), 453-515.

Schilling, Othmar. "Die alttestamentlichen Auffassungen von Gerechtigkeit und Liebe," Vom Wort des Lebens: Festschrift für Max Meinertz. Edited by N. Adler. ("Neutestamentliche Abhandlungen".) Munster: Aschendorffsche Verlagsbuchhandlung, 1951.

Schilling, Othmar. "Gesetz und Gnade im Alten Testament," Unio Christianorum, Festschrift für Erzbischof Lorenz Jaeger. Edited by Othmar Schilling. Paderborn: Bonifacius-Druckerei, 1962.

Schofield, J. N. "The Significance of the Prophets for the Dating of Deuteronomy," Studies in History and Religion, Presented to Dr. H. Wheeler Robinson, M.A., on His Seventieth Birthday. Edited by E. A. Payne. London: Lutterworth Press, 1942.

Scott, R.B.Y. "A Kingdom of Priests, Exodus XIX, 6," Oudtestamentische Studien, Edited by P.A.H. De Boer. Leiden: E. J. Brill, 1950, Pp. 213-219.

Scott, R.B.Y. "Priesthood, Prophecy, Wisdom, and the Knowledge of God," Journal of Biblical Literature, 80 (1961) 1-15.

Scudder, C. W. "Ethics in Deuteronomy," Southwestern Journal of Theology, VII/1 (1964), 33-40.

Segal, M. H. "The Book of Deuteronomy," The Jewish Quarterly Review, XLVIII/4 (1958), 315-351.

Seligman, I. L. "A Psalm from Pre-Regal Times," Vetus Testamentum, 14 (1964), 75-92.

Skehan, P. W. "The Structure of the Song of Moses in Deuteronomy. (Deut. 32: 1-43.)," The Catholic Biblical Quarterly, 2, (1951), 153-63.

XUM

Speiser, E. A. "'People' and 'Nation' of Israel," Journal of Biblical Literature, 79 (1960), 157-163.

Staerk, W. "Zum alttestamentliche Erwählungsglauben," Zeitschrift für die alttestamentliche Wissenschaft, 55 (1937), 1-36.

Stamm, J. J. "Zum Altargesetz im Bundesbuch, (Ex. 20, 24)," Theologische Zeitschrift, I (1945), 304-306.

Stamm, J. J. "Sprachliche Erwägungen zum Gebot 'Du sollst nicht töten' (Ex. 20, 13)," Theologische Zeitschrift, I (1945), 81-90.

Sutcliffe, E. "Effect as Purpose. A Study in Hebrew Thought Patterns," Biblica, 35 (1954), 320-337.

Švéda, Sidonius. "Der Bund, das Gesetz und die Propheten," Bibel und Kirche, 19/1 (1964), 5-9.

Thomas, D. Winton. "The Root 'Love' in Hebrew," Zeitschrift für die alttestamentliche Wissenschaft, 57 (1939), 57-64.

Thompson, J. A. "The Book of the Covenant Ex 21-23 in the Light of Modern Archaeological Research," Australian Biblical Revue, II (1953), 97-107.

Thompson, J. A. "The Book of the Covenant Ex 21-23 in the Light of Modern Biblical Research," Australian Biblical Revue, II (1953).

Thompson, J. A. "Covenant Patterns in the Ancient Near East and Their Significance for Biblical Studies," Reformed Theological Review, 18 (1959), 65-75.

Tunyogi, Andrew C. "The Rebellions of Israel," The Journal of Biblical Literature, 81/4 (1962), 385-390.

Vischer, W. "'Du sollst dir kein Bildnis machen;," Antwort. Festschrift Karl Barth. Zurich: Evangelischer Verlag, 1956.

Vriezen, Th. C. "Das Hiphil von 'AMAR in Deut. 26, 17.18," Ex Oriente Lux. (Jaarbericht van het vooraziatisch-egyptisch Genotschap," 17). Leiden: Brill, 1964.

Weinfeld, Moshe. "Assyrian Treaty Formulae in Deuteronomy," Biblica, 46 (1965), pp. 417ff.

Weinfeld, Moshe. "The Change in the Conception of Religion in Deuteronomy," Tarbiz, 31 (1961/62), 1-17.

Weinfeld, Moshe. "Deuteronomy -- The Present State of Inquiry," Journal of Biblical Literature, 86 (1967), 249-262.

XUM

Weinfeld, Moshe. "The Dependence of Deuteronomy Upon the Wisdom Literature," Yehezkel Kaufman Jubilee Volume. Studies in Bible and Jewish Religion Dedicated to Yahezkel Kaufmann on the Occasion of His Seventieth Birthday. Jerusalem: Magnes Press, 1960.

Weinfeld, Moshe. "'Heiliges Volk' und 'Grosser Stamm'. Eine geistige und politische Berufung," Molad, 21/185-186 (1963), 662-665.

Weinfeld, Moshe. "The Origin of Humanism in Deuteronomy." The Journal of Biblical Literature, 80/3 (1961), 241-247.

Weinfeld, Moshe. "The Source of the Idea of Reward in Deuteronomy," Tarbiz, 30 (1960), 8-15.

Weiss, Meir. "PQD^{c}WN 'BT ^{c}L BNYM (Ex 20, 5-6)," Tarbiz, XXXII/1 (1962), 1-18.

Weiss, Meir. "Some Problems of the Biblical 'Doctrine of Retribution'," Tarbiz, XXXI/3 (1962), 236-263.

Westermann, Claus. "Struktur und Geschichte der Klage im Alten Testament," Forschung am Alten Testament. Gesammelte Studien. ("Theologische Bücherei, Neudrücke und Berichte aus dem 20. Jahrhundert".) Munich: Chr. Kaiser Verlag, 1964.

Westermann, Claus. "The Way of Promise Through the Old Testament," The Old Testament and Christian Faith. Edited by Ernhard W. Anderson. New York: Harper & Row, 1963.

Whitley, C. F. "Covenant and Commandment in Israel," The Journal of Near Eastern Studies, 22/1 (1963), 37-48.

Widengren, Geo. "King and Covenant," Journal of Semitic Studies, II/1 (1957), 1-32.

Wildberger, Hans. "Israel und sein Land," Evangelische Theologie, 16 (1956), 404-422.

Wolff, Hans-Walter. "Hoseas geistige Heimat," Gesammelte Studien zum Alten Testament. ("Theologische Bücherei, Neudrücke und Berichte ans dem 20. Jahrhundert," 22.) Munich: Chr. Kaiser Verlag, 1964.

Wolff, Hans-Walter. "Jahwe als Bundesvermittler," Vetus Testamentum, 6 (1956), 316-320.

Wolverton, W. I. "The King's 'Justice' in Pre-exilic Israel," Anglican Theological Review, 41 (1959), 276-286.

XUM

Wright, G. Ernest, "The Book of Deuteronomy," The Interpreter's Bible Vol. II. Edited by G. A. Buttrick. New York: Abingdon-Cokesbury Press: 1953.

Wright, G. Ernest. "The Law-suit of God: A Form-Critical Study of Deuteronomy 32," Israel's Prophetic Heritage: Essays in Honor of James Muilenburg. Edited by B. W. Anderson and W. Harrelson. New York: Harper & Bros. 1962.

Wright, G. Ernest. "The Levites in Deuteronomy," Vetus Testamentum, 4 (1954), 325-330.

Würthwein, Ernst. "Amos-Studien," Zeitschrift für die alttestamentliche Wissenschaft, 62 (1949/50), pp. 10-52.

Würthwein, Ernst. "Der Sinn des Gesetzes im Alten Testament," Zeitschrift für Theologie und Kirche, 55/1 (1958), 36-51.

Würthwein, Ernst. "Der Ursprung der prophetischen Gerichtsrede," Zeitschrift für Theologie und Kirche, 49/1 (1952), 1-16.

Zimmerli, Walther. "Das Gesetz im Alten Testament," Gottes Offenbarung. Gesammelte Aufsätze zum Alten Testament. ("Theologische Bücherei: Neudrücke und Berichte aus dem 20. Jahrhundert," 19.) Munich: Chr. Kaiser Verlag, 1963.

Zimmerli, Walther. "Ich bin Yahweh," Gottes Offenbarung: Gesammelte Aufsätze zum Alten Testament. ("Theologische Bücherei: Neudrücke und Berichte aus dem 20 Jahrhundert," 19.) Munich: Chr. Kaiser Verlag, 1963.

Zimmerli, Walther. "'Offenbarung' im Alten Testament," Evangelische Theologie, 22 (1962), pp. 15-31.

Zimmerli, Walther. "Promise and Fulfillment," Essays on Old Testament Hermeneutics. Edited by Claus Westermann. Richmond: John Knox Press, 1963.

Zimmerli, Walther. "Das Wort des göttlichen Selbsterweises (Erweiswort), eine prophetische Gattung," Gottes Offenbarung: Gesammelte Aufsätze zum Alten Testament. ("Theologische Bücherei: Neudrücke und Berichte ans dem 20. Jahrhundert," 19.) Munich: Chr. Kaiser Verlag, 1963.

Zimmerli, Walther. "Das zweite Gebot," Gottes Offenbarung. Gesammelte Aufsätze zum Alten Testament. ("Theologische Bücherei: Neudrücke und Berichte aus dem 20. Jahrhundert," 19.) Munich: Chr. Kaiser Verlag, 1963.

ADDENDA

Page 47, Note 1 Revised

Our passages use יהוה consistently, yet the Yahwistic narrative can be found in Ex. 19:9, 11b-13, 18, 20, (21-25?), 33:18-34:28*: Noth, *Exodus*, *in loc*. J seems to be truncated following 34:28, but it cannot be completed by our materials. On the other hand, there is a nearly complete Elohistic narrative: Ex. 19:3a, (10?), 14-17, 19, 20:1-17, 18-21, 24:1f*, 9-11, probably also 31:18, 32:15, 16. With the exception of 20:2, 5, 7, 10, 11, 12 and 24:1-2, these passages used the divine name אלהים. The exceptions can be explained: Ex. 20:2, 5, 7, 10, 11, 12 occur in the decalog, a unit which E probably took verbatim from the legal tradition. It is 20:1 that connects the decalog to E. Ex. 24:1f have been heavily edited, for the narrative with which they go, *viz*., 24:9-11, does not make everyone but Moses stand far off. Moreover, the occurrence of 'Yahweh' instead of 'me' in the mouth of God is awkward, and probably points to the hand of an editor: cp. Noth, Exodus, *in loc*.

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Page 92, Note 2 Revised

The 'I' of the main stock of Deuteronomy is, with few exceptions - 7:4, 11:13-15, 17:3, 28:20, (29:4f) -, Moses: von Rad, Studies in Deuteronomy, p. 11f. Our interest is phenomenological, so we shall not try to account for the Deuteronomic shift from Yahweh to Moses in our study.

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Page 105, Revised Paragraph and Added Note 1

Immediately, however, we encounter a few limitations to this approach. First, ancient Hebrew developed titles for sovereignty, but not an independent stock for suzerainty. The sovereign was given such titles as 'king' (מלך), 'ruler' (משל), 'leader' (נגיד) and so forth, and his sphere of sovereignty 'nation' (גוי), 'kingdom' (ממלכת), and so forth. Comparable Hebrew titles for a suzerain and his vassals has not been identified.[1] Hence, we cannot be certain that when royal titles are found in a text that we necessarily have a sovereign-subject relationship, for similar language could be used of a suzerain-vassal relationship.

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[1] There have been studies devoted to the vocabulary of the suzerain-vassal treaties, e.g., W.L. Moran, "The Ancient Near Eastern Background of the Love of God in Deuteronomy," *The Catholic Biblical Quarterly* xxv/1 (1963), pp. 77-87; Herbert B. Huffman, "The Treaty Background of Hebrew Yada^{c}," *Bulletin of the American Schools of Oriental Research*, No. 181 (1966), pp. 31-37; cp. also Nelson Glueck, *Hesed in the Bible* (Cincinnati: Hebrew Union College Press, 1967); and G. Ernest Wright, *The Old Testament and Theology* (New York: Harper and Row, 1969), pp. 114f. It can not be maintained that any of these studies has identified terms which are the exclusive or even unique possession of suzerain-vassal treaties.

Page 34, Excursus: David's Powers as Melek of Israel

Does the relationship established between David and the elders of Israel constitute the power of sovereignty over the people of Israel or could it be that, despite the designation מלך, David is really only a suzerain? In the endeavor to answer this question, we shall review the structure of the Davidic monarchy briefly, examine the traditions to determine what powers he exercised, and evaluate the evidence in the light of the concepts of sovereignty and suzerainty. Finally, we will review the history of the Davidic monarchy over the northern tribes to determine whether these tribes related to him as subjects or as a vassal.

Albrecht Alt portrays the Davidic monarchy as a dual kingship built upon loyalty to the person of David.[1] David first ascended to power over Judah at Hebron. In their recognition of David as king, the people of the tribes of Judah and Simeon and neighboring non-Israelite tribes constituted themselves as a political state for the first time in history.[2] The majority of Israelite tribes continued to recognize Saul's son Ishbaal until he was killed. Instead of recognizing another Saulide, the elders of the northern tribes proposed to David that he be their king. When he ascended to power over the northern tribes, he ruled two independent political entities, Judah and Israel. Finally, when David conquered Jerusalem, he became its king by right of conquest.[3] Each of these entities maintained semi-independent political identities within the Davidic state.[4]

Now it is noteworthy that at least the two 'kingdoms,' Judah and Israel, were equals within the Davidic state. Although David had closer personal and political ties with Judah, it was not given ascendency over Israel in the kingdom.[5] The elders of Israel selected David to be their king. In a suzerain-vassal relationship, not only the suzerain himself but also the state over which he ruled had ascendency over the vassal king and his kingdom.

The elders of Israel confer the title מלך on David (2 Sam. 5:3). This is the socio-political title which corresponds to the theological designations, 'shepherd of my people Israel' and 'leader (נגיד) over Israel' (5:2).[6] David's power over Israel derived from Yahweh's power over Israel.[7] David was chosen to rule over God's people in order that Yahweh might deliver them from their enemies and establish them on their land (2 Sam. 7:8-10, cp. 5:2). Yahweh acted in the monarchy as the God of all of Israel. Every Israelite was bound by conscience to recognize David's authority, for it derived from the God of all the people. When the Israelite elders made their covenant with David and anointed him king, they formalized the designation of God. Moreover, the elders recognized kinship ties with David, symbolic both that they formed one community and that David's authority was co-extensive with this community.

To summarize, David was given supreme power within the northern tribes. He held this position in conjunction with his supremacy over the southern kingdom and the city-state of Jerusalem. He was related to the northern kingdom not as a foreign power who imposed his will upon an independent self-governing entity, but as a member of the people who had been chosen by the God of the people to reign over his entire people.

The Biblical traditions do not give us a complete and systematic picture of Israelite royal powers. We must reconstruct these by reviewing the administrative acts of David and Solomon.

1. David took a census (2 Sam. 24) for military and taxation purposes.[8] Although this was considered to be a breach of divine prerogatives, David did possess the power to do it. The census covered the territory of both Judah and Israel.

2. Solomon created a system of administrative districts for the area of the northern tribes (1 Kg. 4:7-19). Again this administrative measure probably came under the power of taxation (so 4:27). The fact that each district had a governor, however, may indicate powers to administer public affairs.

3. Solomon instituted the practice of forced labor for Israelites (1 Kg. 5:13f). This is a taxation of work.

4. Perhaps Solomon also enjoyed a monopoly on foreign trade.[9] This could be considered something of a power of taxation, for it is a source of revenue and prestige artificially excluded from all but the monarch.

5. The king possessed the power of taxation to support the military forces defending the realm. This was the primary purpose of monarchy in Israel (2 Sam. 7:8-10, etc.). Many of the court officials were military commanders (2 Sam. 8:15-18, 20:23-26, 1 Kg. 4:1-6).

6. The king had the power to raise and maintain a professional army and to muster both the Judean and Israelite militia at his pleasure (cp. 2 Sam. 10, 12:26-31, an account of an imperial war in which the militia as well as professional troops took part).[10]

7. Both David and Solomon had the power to enter into alliances and treaties, to exchange diplomats and entertain heads of foreign states (2 Sam. 10:1ff, etc.). This is, of course, a fundamental power of sovereignty.

8. Both David and Solomon possessed the power to choose sites for public functions. David established a capitol (2 Sam. 5:5, 6ff) and Solomon built public buildings (1 Kg. 7:1-8, 10:16-21). The public buildings were the property of the king, but they were built with public funds for the administration of the realm. The king adorned the buildings with signs of royal prestige and splendor (1 Kg. 7:1-12, 10:12-22).

9. David and Solomon staffed the public buildings at public expense and disposed over the staff freely (cp. 1 Sam. 8:12-13).[11]

10. Solomon also selected certain strategic cities for fortification and others as store cities (1 Kg. 9:15-19). The power to defend the realm, thus, included the power to determine policies of cities within it and the power of eminent domain.

11. A prime function of ancient monarchies was the establishment and maintenance of a public cultus. David appropriated an ancient religious artifact, the Ark, and made it the site of a public cultus in the royal city (2 Sam. 6, 7). Solomon built the temple (1 Kg. 7f) and

provided for an elaborate, continuous ritual. Both David and Solomon appointed the clergy that officiated at the royal sanctuary (2 Sam. 8:7, 20:25, 26, 1 Kg. 4:4b, 5b).

12. David and Solomon had dominion over the territory of the kingdoms. David conquered the Canaanite areas within the land considered to belong to the people of Yahweh and incorporated them into the 'kingdoms.' These territories were not treated as crown possessions, as Jerusalem seems to have been, but as districts of the respective territories of Israel and Judah.[12] Solomon ceded an area of the northern kingdom to another state as a part of a financial transaction (1 Kg. 9:10-14).

13. While neither David nor Solomon promulgated law governing the relation of members of society to each other or administered the judicial system, so far as we know, both appear to have possessed the power to hear citizens' causes (e.g., 2 Sam. 14:1-24, 15:1-6, 1 Kg. 3:16-28; cp. also 2 Sam. 21).[13]

14. David and Solomon possessed 'royal immunity' from legal process (hence divine intervention: 2 Sam. 12, 1 Kg. 11) and could exercise complete and arbitrary control over the life and death of any citizen (cp., e.g., 1 Kg. 1-2).

15. The king had significant importance as a 'patron of culture.' It is common to speak of a Solomonic Renaissance in which the Court History and Yahwistic Narrative were composed.[14] Royal records were kept (1 Kg. 11:4). The members of the court cultivated the art of rhetoric and wisdom (e.g., 1 Kg. 3:4-28, 10:1-13, 23f).

This list of administrative powers is sufficient to demonstrate that the power the elders bestowed upon David belong to a sovereign rather than a suzerain. Undoubtedly David and especially Solomon extended their powers beyond what many Israelites believed proper. Solomon's taxation and forced labor led to the secession of the northern tribes after his death (1 Kg. 12). However, it is significant that in these breaches of legitimacy the kings were nevertheless obeyed. The citizens of the kingdom felt constrained to acquiesce to the royal will despite their displeasure. This is certainly an additional sign that David and Solomon exercized something approximating sovereign power.

A suzerain's power is much more limited than David's and Solomon's was. While a suzerain did 'tax' the vassal state, this did not involve census-taking, the establishment of administrative districts, public work projects, and so forth. Furthermore, the taxes went to the suzerain and his army, palace, etc., not the public institutions of the very people taxed. Regarding the other powers, the suzerain did not make foreign policy for the vassal unilaterally, but tried to restrict and guide the policy of the vassal. The vassal state provided its own public buildings, raised and maintained its own army, maintained its own public cultus, fortified its own cities, disposed over its own territory, and so forth. Certainly the suzerain tried to oversee the acts of his vassal in these areas and undoubtedly intervened when they went counter to his pleasure, but these are much weaker powers than the royal power.

Finally, we should note an intangible feature of sovereignty which

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is lacking in a suzerain's power: Allegiance and loyalty of the populace to a sovereign is the cement which holds the nation together. The kingdom was constituted by the recognition of one common will within it. David and Solomon ruled over one kingdom, despite its complex structure, because the citizens gave them their allegiance.[15] The monarch's claim to this allegiance was a combination of religiously grounded majesty and the prestige of success, the use of superior force against all internal opponents, and the natural acquiescence of the people in the status quo.

David's power as מלך over Israel were as near to sovereignty as any Israelite king exercised. At one critical point, of course, neither David nor any Israelite king exercised the power of internal sovereignty: the power to make civil and criminal law or the procedural rules of court proces or the general regulations of the cultus. The king did not possess law-making power because Yahweh claimed it as a divine prerogative. It should be noted, nevertheless, that many of the powers of the Israelite king, e.g., to raise revenue, to administer public buildings and institutions, are law in the modern state. One might say that the Israelite kings' powers tended in the direction of the power to command, but that they were restricted by divine prerogatives. The king's powers were certainly greater than an ancient suzerain's, for suzerainty is really something of a deficient form of sovereignty.

We recognize that the sovereignty of the Davidic monarchy over the northern tribes was unstable and did not last. To conclude our discussion, we should trace the history of the Davidic sovereignty over the north to determine whether these tribes related to him as subjects or as a vassal.

The kingship of Saul was over the sacral league of tribes, Israel.[16] It was not a territorial state. Allegiance to Saul was based upon allegiance to Yahweh, the God of Israel. Whether Saul actually exercised powers over the tribe of Judah is uncertain, but we do see that the elders of Ziph recognized his kingship, acting as his subjects by reporting the whereabouts of a rebel (1 Sam. 24:19-24, 26:1). The crucial point is that the extent of Saul's authority was not limited in principle to the northern tribes.

The creation of a distinct northern kingdom occurred when 'Judah' constituted itself as a kingdom with David as king. David created this situation by going to Hebron and offering himself as king. It is quite possible that he intended only to achieve recognition of a segment of 'Israel' and use this as a lever to wrest control of the sacral league from the house of Saul (cp. 2 Sam. 2:1-7). If this is so, the strategy failed and there was created a fissure in the people of Yahweh which was never healed. Abner was able to get Saul's son Ishbaal recognized by the elders of Israel, somewhat against their will (2 Sam. 2:8-10, 3:17-19). The years of rivalry between the two kingdoms that ensued did not alienate the northern kingdom seriously, but it did set the duality. When the northern kingdom came into the kingdom of David, it came in on its own terms as an independent entity. It may have even preserved a distinct view of kingship in the act of covenant-making.[17] However that may be, the elders of Israel felt the freedom to withhold recognition from Rehoboam some years later (1 Kg. 12), a freedom neither Jerusalem nor the southern kingdom felt.

So far as we can tell, David understood himself to have been chosen as נגיד over the entire people of Yahweh (cp. 2 Sam. 5:1f, 7:8-10, Ps. 89:19-37, etc.) and that his dynasty would exercise sovereignty over the entire people for all time to come (cp. 2 Sam. 7:11b-16, 21-29). In fact, it appears that the Davidic monarchy never ceased to claim that it was the true sovereign of all of Yahweh's people (cp., e.g., Hos. 3:5, and similar prophecies of restoration).

There were two serious rebellions against David's sovereignty during his lifetime, the rebellion of Absalom and of Sheba. Absolom's rebellion does not appear to have been sectional.[18] The uprising began at Hebron. The chief supporters of Absalom were Judeans. David escaped into the territory of the northern tribes, in Transjordan. The elders of Judah were reluctant to appear before David (2 Sam 19:11ff, cp. 19:43), probably for fear of reprisals for defecting to Absalom. According to 2 Sam 19:9f, all of the tribes were in an equally difficult situation.

David's response to Absalom's rebellion was politically unwise: He showed favor to Absalom's commander, Amasa, and the elders of Judah and ignored the elders of Israel (2 Sam. 19:11-15). The latter interpreted the favoritism shown the elders of Judah as a sign that David could not transcend his blood ties with the south to be king of all Israel (2 Sam 19:41ff). Whatever the exact dynamics, the schism had to do with feelings of various constituencies in the kingdom toward each other, not with more abstract issues of covenant loyalty.[19]

The elders of the northern tribes withdrew in a huff. A man named Sheba ben Bichri of Benjamin raised a cry of revolt and was initially followed by the Israelite contigent at the fords of the Jordan. However, Sheba's revolt fizzled for lack of support, and Sheba retreated to the far north with his followers. He was so weak that he was executed by villagers of the place to which he had retreated for refuge. There were no reprisals against the northern tribes. Sheba was treated as an isolated rebel, not the leader of the northern tribes. This incident as a whole shows the strength of loyalty to David and to the political unity of the people of Yahweh.

Solomon's succession (1 Kg. 1-2) to the Davidic throne did not directly involve the elders of the northern tribes. The disputants for the throne and their parties were internal to the Davidic household.

We do not hear of a visit of Solomon to Shechem to be acclaimed by the elders of the northern tribes, as we do in the case of Rehoboam. It seems likely that each successor to the throne would have had to be acclaimed by each constituency of the kingdom. There may have even been a renewal of the covenant between Israel and David, as the elders' conditions for recognition of Rehoboam (1 Kg. 12:4) suggest. However, the silence regarding Solomon's being acclaimed by the northern tribes leaves the issue somewhat uncertain. The visit of Solomon to the northern shrine of Gibeon, though hardly an historic sanctuary, may have had something to do with succession.

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The dual kingdom of David and Solomon dissolved at the succession of Rehoboam (1 Kg. 12). This was the logical time for the secession of the northern tribes, for they had the freedom to refuse recognition of the king of Judah and Jerusalem. Although one could call it a rebellion, it was not a rebellion against a particular king who had previously received formal, binding recognition. Within the northern kingdom itself, it was a legitimate power of the elders to recognize Jeroboam rather than Rehoboam.[20] It was probably understood that the Davidic throne had a right to the allegiance of the northern tribes, but that this right was qualified by the covenantal character of the tie. The Davidic kingship over Israel was something of a limited sovereignty, and could be dissolved when the Davidic house had proved itself a transgressor of its powers. This was, I believe, the way the northern elders viewed the situation, though not the way Rehoboam himself or his youthful councellors viewed it. The latter sought to impose an absolute monarchy on Israel, and the result was the dissolution of the political unity of the people of Yahweh.

The history of the Davidic dominion over the northern tribes demonstrates a degree of instability, but it does not suggest a suzerainty-vassal relationship. The northern tribes did represent an independent constituency within the Davidic state with its own formal relationship to David. However, David and Solomon exercised all the powers over it that they exercised over the other constituencies, and it claimed an equal status with the others (e.g., 2 Sam 19:43).[21] Theologically, David claimed power over all of the people of Yahweh, and the elders of Israel recognized this claim (2 Sam. 5:2). However, they do not seem to have accepted the Davidic dynastic claims entirely and finally broke with the dynasty at the succession of Rehoboam. They simply substituted a non-Davidic person, Jeroboam, for the Davidic king. Jeroboam himself claimed divine designation (1 Kg. 11:26ff).

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[1] "The Formation of the Israelite State in Palestine," Essays on Old Testament History and Religion (Oxford: Blackwell, 1966), pp. 205ff.

[2] Ibid., pp. 211-216.

[3] Ibid., pp. 217f.

[4] Ibid., pp. 225ff

[5] Cp. ibid., pp. 216ff.

[6] See ibid., pp. 195, 210.

[7] It is perhaps noteworthy that the historical recollections reach back (in 2 Sam. 5:2) to Saul's reign, but do not cover David's relationship to Judah, for the latter may not have been theologically relevant.

[8] John Bright, A History of Israel (Philadelphia: Westminster, 1959), p. 184.

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[9] So Alt, *op. cit.*, p. 232n. [10] *Ibid.*, p. 227.

[11] Cp. Bright, *op. cit.*, pp. 199f.

[12] Alt, *op. cit.*, pp. 221-224.

[13] Bright, *op. cit.*, p. 185. [14] *Ibid.*, p. 198.

[15] Cp. Alt, *op. cit.*, pp. 232-237. [16] *Ibid.*, pp. 183ff.

[17] Alt, "The Monarchy in the Kingdoms of Israel and Judah," *ibid.*, pp. 243ff, describes the different monarchical traditions of the two kingdoms.

[18] Bright, *op. cit.*, p. 188.

[19] However, an important element in 2 Sam. 5:1-3 is the blood ties of David and the northern tribes.

[20] Cp. Bright, *op. cit.*, pp. 210f.

[21] They actually claim more than an equal share!

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